

INDIAN POLITICAL PHILOSOPHY

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DEDICATION

To The Sacred Memory Of

My Mother

KATYAYANI DEVI



PREFACE

The apology for placing this volume before the public is that a philosophical interpretation of the subject has been attempted as far as possible on the available data. All types of researches in this field have been used and incorporated for this purpose. The book combines the results of the accumulated labours of Eastern and Western savants, in the sense that their writings and conclusions have been fully laid under contribution. The popular fashion of ignoring the works of Indian scholars and of depending solely on the findings of Western authorities has been studiously avoided.

The subject-matter of almost all the chapters was out in the form of articles in 1924, 1925 and 1926 in the Indian Historical Quarterly, the Journal of the Bhandarkar Research Institute, the Young Men of India and the Indian Messenger. The last three chapters on the Philosophy of Group Life have been set apart for a separate volume. The manuscript was prepared by my brother, late Pulin C. Ganguly.

Bankura College, Bankura
25th April, 1939.

ERRATA

PAGE	LINE	FOR	READ
27	1 F.N.	Vede	Vide
28	24	charactor	character
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83	1	Republicanism	Ethics of Republicanism
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TABLE OF CONTENTS

Introduction	i—xi
CHAPTER I.			
Types of Theories I.			
Origin of the State—Divine Origin—Mixed Origin—Abstract Origin—Contract Origin—Rational Origin	...		1—21
CHAPTER II.			
Types of Theories II.			
Nature of Kingship—Theoretical Aspects—Practical Aspects— Elective System—Wage Idea—Trust Idea—Service Idea— Identity—Hereditry	...	...	22—39
CHAPTER III.			
Political Authority I.			
Anti-Popular, Orthodox—Brāhmanical Problem—Epic Prob- lems—Solutions—Sub-divisions—Criticism	...		40—53
CHAPTER IV.			
Political Authority II.			
Popular, Representative—Vedic Age—Authority in General—In Election—In Deposition—Unity of Will and Social Pro- cess—Corporate Authority—Sabhā and Samity—Majesty of Assembly—Theory of the Common Mind—Another Phase—Buddhist Age—Social Compact—Position of King—Ethics of Republicanism—Epic Age—New Ideas— Sophistry—State of Nature and Law of Nature—Social Contract—Revolutionary Thought—Criticism	...		54—110
CHAPTER V.			
Vox Populi.			
General Aspect—Political Aspect	...	...	111—117
CHAPTER VI.			
Doctrine of Resistance and Revolution.			
Resistance to High-handedness—To Over—Taxation—Passive Resistance—General estimate	...	...	118—132
CHAPTER VII.			
The Divine Right.			
Epithets leading to Divinity—Source of the Idea—Practical Application	...	...	133—150
CAPTER VIII.			
Theory of Structure and Constitution.			
Analysis of the State—Nature of the State—Types of Unity— Constitutionalism—Royal Oaths—Co-operation and Deli- beration—The Head and Members	...	...	150—181

CHAPTER IX.

National Sentiments and Idealism.

Freedom and Unity—National Freedom—Utopia-building— Patriotism—Ahimsa Ideal—Political Ahimsa and Pacifism	182—212
---	-----	-----	-----	---------

CHAPTER X.

Theory of Sovereignty.

Doctrine of Danda—Empirical View—Forms of Danda— Mythological History—Paradox of Danda—Danda and the King	213—231
---	-----	-----	-----	---------

CHAPTER XI.

Principles of Punishment.

Punishment as Retribution—as Expiation—as Restraint— as Preservation—as Reformation—Punishment and Discipline—Kinds and conditions—Laissez Faire— Brahmanical Privilege	231—260
--	-----	-----	-----	---------

CHAPTER XII.

Rise of Property.

Psychology of Property—Rise of Property—Manu's View—Epic Treatment—Trust Doctrine—Laukika Aspect	260—281
---	-----	-----	-----	---------

CHAPTER XIII.

Principles of Taxation.

Nature of Taxation—Canons of Taxation—Industrial Tax— Export and Import Regulations—Excise Duty—Extra— Taxation—Kinds and Rates—Spiritual Tax—Exemp- tions and Exceptions	282—315
--	-----	-----	-----	---------

CHAPTER XIV.

Philosophy of Dharma (Law).

Basis of Law—Empirical View—Rational View—Application and Analysis—Kinds, Proofs, Ways—Dharma and Institutions—Yuga Dharma—Individual and Four Ages	316—364
---	-----	-----	-----	---------

APPENDIX

Note 1, Matsya-Nyaya—Note 2, Election and Deposition— Note 3, Hundred Men Standard—Note 4, Radicalism in Sacred Law—Note 5, Divine Right, Eastern and Western, Opinions—Note 6, Brahmanā-Kshatriya Combination, Number of Ministers—Note 7, Political Ahimsā—Note 8, Political, Legal and Popular Sovereignty—Note 9, Turning-point of Law—Note 10, Analysis of Ownership— Note 11, Chronology of Texts.	...	...	...	365—401
Bibliography	...	...	...	402—412

INTRODUCTION

Recent researches in ancient Indian politics have made it possible to give a philosophical treatment to the subject and to face its problems from a philosophical standpoint. This is a task presupposing considerable spadework previously done. Although it is generally believed that India had no political philosophy worth consideration, and nothing more than rules of practical administration could be found in the writings of Hindu thinkers, it will not be wrong to maintain that, given adequate construction and proper setting, a roughly parallel stream of sound political speculation is available side by side with that which produced the well-known systems of philosophy. Wherever general philosophy flourishes, it may be expected that politics also rises concomitantly to similar levels more or less. Until recently Hindu politics was practically a *terra incognita* to Europe and America, partly due to preconceptions and partly for lack of interest ; no European scholar has as yet seriously taken it up with characteristic vigour and thoroughness¹.

The evidences of the existence of this subject, though rather loosely scattered and deeply laid in the layers of ancient Sanskrit thought, were amply indicated as well as verified by Dr. Jayaswal and then the materials were constructively elaborated into systematic Political Theories.² The works of Professors Bannerjee, Majumdar, Bhandarkar, and Sarkar have opened up an almost virgin soil rich

¹ Vide Pol. Theo. & Inst. of the Hindus, p. 6 ; Ethics of India, p. IX.

² Dr. Jayaswal's articles (Modern Review 1912) systematised the subject and brought it to the notice of the public, and Sri Arobinda Ghose's writings (Arya, 1920) supplied a regular critical estimate.

with great possibilities, and others like Drs. Law, Ghosal, Bannerjee and Prasad have followed successfully in their wake. It was left to Dr. Jayaswal, as the path-maker in the field, to show conclusively the perfect technology of Hindu Politics together with its embodiments in actual life, that is to say the various types of institutions and their undeniable manifestations, altogether disclosing, both in theory and practice, highly complex and organised social concentration and consciousness. Dr. R. Shama Sastri's discovery of the Arthaśāstra created a new epoch, which has been wonderfully fruitful. Much has still to be done in the way of digging up new fields and exhibiting new relations and principles. Materials for such an enterprise lie widely distributed over Hindu, Jaina and Buddhist literatures; a good deal may yet be found in them to illuminate the dark places where there was no light before. Many established theories may also be affected by the rapid advance of archaeology and epigraphy. The permanent setting of Indian Thought has been fully displayed by the almost lately published Histories of Indian Philosophy from the able pens of Sir S. Radhakrishnan and Dr. S. N. Das Gupta and the brilliant contributions by Professors Radhakumud Mukherjee and Radhakamal Mukherjee have materially aided the exposition of the subject from many sides.

Philosophical treatment has been defined as "the study of something as a whole for its own sake."¹ In this respect it only tries to estimate the kind and degree of self-maintenance and self-expression. When the topical problems of Indian politics are dealt with as wholes with all their inter-relations, the underlying philosophy becomes palpable and evident. It does not pretend to come up

¹ Phil. Theo. of the State, p. 1. Cf. "Pūrṇa-prajñā" (Hindu Phil.)

to the achievements of the modern world, but it does prove its validity as a system of thought through such topical problems as its integral phases. Political philosophy takes cognisance of these problems of social life from age to age, and traces the many contributions to their solution with a judgment of value. Its broad principles are laid along these lines. And as no problem of life was fully answered anywhere in the age in which it arose, a whole view becomes necessary, together with its many ramifications, even into provinces beyond its legitimate jurisdiction. This is equally true of ancient India, yet it is surprising that the solutions occasionally offered by her approximate modern theories to some extent in certain cases. Standards were suggested and analysis made touching intrinsic values, while there were here and there reaches of thought, which might profitably be applied to social and political difficulties of the world to-day. A student of political philosophy cannot but be struck by the insight and incisiveness of the ancients, who gave time and thought to the subject, in spite of their crudities and failures, slavery to the past and blindness to the future. If synchronous progress is estimated ancient India will not lose by any comparison. What she has not is amply counterbalanced by what she has, for it cannot be claimed that she produced all types of thought.

The character of Indian politics, as expected, partakes mostly of the nature of Indian philosophy in general, which is its real back-ground. It is spiritual to the very core, trying to infuse the whole and its parts with the sublimity and potency of religious idealism. In the language of Professor Radhakrishnan, "the Indian never felt that the world was a field of battle where man struggled for power, wealth and dominion."¹ To the sphere of political

¹ Indian Philosophy p. 22.

philosophy this statement is equally applicable, for as a subject it was attuned ultimately to the highest needs of man such as dharma (righteousness) and salvation. "The end of the state is assuredly good life or the excellence of souls" and in this department of Indian thought "the individual is not a datum, but a problem, and the aim of politics is to find and realise the individual".¹ Here the Hindu mind has given the spiritual counterpart of the Greek ideal of the highest development of man, if it is to be expressed in terms of modern thought. General philosophy and political philosophy being concomitant factors in civilised national life, the connection between the two is intimate in all ages and climes. It is this relation that distinguishes the latter from mere political theory and constitutional history. The presence of this relation gives political science its normative aspect. It not only describes the facts but weighs them and sets forth an ideal to be striven for and attained.

Yet political philosophy is not mere idealism, nor crude realism; in it the happy combination of end and means is equipoised to work out an ideal in progressive completeness. Of Indian politicians, the one most practical, emphasised the importance of philosophy, while the most philosophical one warned against dreaminess. "Philosophy" is styled by Kautilya as "the lamp of all the sciences, the means of performing all works, and the support of all duties".² Bhīṣma stressed the reality of politics by declaring that "what has been discoursed upon by me is the method (of governance)

¹ Phil. Theo. of the State, pp. XXXIX., lvi, (adapted). See Ch. I end.

² Artha Śāstra, II, 9, p. 7; Ind. Antiquary 1918, p. 102.

Pradipassarvavidyānāmupāyassarvakarmaṇām
Āśrayassarvadharmāṇām śāśvadānvikshiki matā,

(Dr. R. Shāmā Śāstri's Ed., p. 7)

and not maya (illusion)".¹ But the great Sage Valmiki had straight away identified politics with eternal truth, metaphysical or otherwise.²

"There is no race in the world without a ruler" (organised state).³ If these words of Somadeva are true, as they undoubtedly are, even on modern corroboration,⁴ there will be no difficulty in understanding the trend of the politics of the ancient Hindus and their speculations on many intricate social questions. The state served definite need and a definite end. The human mind being on the average constitutionally the same with unalterable categories, roughly similar concepts and theories of the fundamental type are but natural in the West as well as in the East, apart from their individuality and special characteristics. "The East is East and the West is West" was most probably spoken of human trivialities and frailties in Kipling's famous poem and not of the strength, height and greatness of man. The poet saw the substantial identity of humanity in its best and noblest phases at all longitudes and latitudes. There is no East nor West, according to the context, "When two strong men stand face to face." It is only the time and conditions that have to be taken into account in judging the products of an age in any place, otherwise human ambitions, successes and failures have an average common nature all over the world and so have all human cultural

¹ Śānti Parva, 88—"Upāyān pravravimyetān name māyā vivakshitā" (Bengal Ed. p. 212) Free Trans.

² Rāmāyaṇa, Ajodhyā Kāṇḍa, 105,—"*Satyameva...Rājavṛttam sanātanam*"

³ Kathasaritsagara (1064) 102, 63, p. 552, Tawney's Trans. Vol. I, p. 390.

⁴ Bosanquet, Phil. Theo. of the State, p. 3.—"Wherever men have lived there has always been a state".

achievements.¹ For "it is impossible to mention a single ideal or institution in the Occident, for which a parallel or replica is not to be found in the Orient....And man as a political animal has responded to the stimuli of the objective universe in much the same way in the East and the West."² Such a truth squarely corresponds to the assumption of all religions and the postulates of Idealistic Philosophy as well as the gradual convergence of the findings of Sociology and Anthropology. The "superstition" of many "modern political priests", to use Mr. Jayaswal's poignant phraseology,³ is at the bottom of all unscientific generalisations and illogical dogmatism in comparative politics.

The adverse opinions of Western authorities like Janet, Willoughby, Dunning, and Bloomfield,⁴ need not detain attention here, for the simple reason that theirs was not a systematic study of all the available materials. When the great Max Muller said "no wonder that a nation like the Indian cared so little for history, no wonder that social and political virtues were little cultivated and the ideas of the useful and the beautiful were scarcely known to them,"⁵ Indian studies did not advance to their present position, the Arthaśāstra was not discovered, and

¹ Cf. A. Huxley, "Substitutes for Religion", Essays, p. 278—"The form of institutions and philosophies may change, but the substance that under-lies them remains indestructible, because the nature of humanity remains unaltered."

² Pol. Theo. & Inst. of the Hindus, pp. 4 & 8.

³ An Intro. to Hindu Polity, by Jayaswal, Mod. Rev. Sept. 1913. p. 291.

⁴ Janet, Hist. de la Sc. Politique, I. p. 26; Willoughby, Nature of the State, pp. 12, 42. Dunning, Hist. of Pol. Theo. Anc. & Mod., Intro. XIX. Bloomfield, Religion of the Veda, p. 4..

For criticisms see Chaps. I, VII, Note 8. R. G. Gettell is perhaps the only European writer who has tried to understand Ancient Indian Politics and appraised it rightly in his Hist. of Pol. Thought, (p. 25).

⁵ Anc. Sansk. Lit. p. 10.

the study of ancient Indian politics, sociology and economics was not pushed on as that of religion and philosophy. These floating ideas were vigorously controverted on cogent grounds and in persuasive words by Mr. Arobindo Ghose in his *Defence of Indian Culture* and he thinks—"the legend of Indian political incompetence has arisen from a false view of the historical development and an insufficient knowledge of the ancient past of the country"¹. It is fortunately undergoing modifications day by day and that summary reading of Indian history in all its many ramifications has been practically superseded by a more careful and enlightened scholarship, so that the facts have stood out with a quite different nature. Professor Sarkar has rightly pointed out that "the sociological material is on the whole varied and copious enough to call for a *philosophic handling*, tentative albeit, in order that Indology may be brought in line with the tendencies in other branches of modern inquiry"².

It was the far-reaching vision and the penetrative genius of the great Indian educationist, the late Sir Asutosh Mukherjee, which brought about the abundant harvest of original works in many departments, including the politics of ancient India. The gradual unfolding of connections and materials in this field has created a new subject to-day and added to the totality of the world's knowledge about India and her thought. A very humble attempt is made in the following pages to present the subject, as far as possible, in its philosophical aspect and to bring some new materials and arguments to it. Besides

¹ A Defence of Indian Culture, Arya, Oct. 1920, p. 168. The warning has also been given at the same time—"Indian scholars have attempted to read the modern ideas and types of democracy and even a parliamentary system into past India, but this seems an ill-judged endeavour". Ibid p. 169.

² Pol. Theo. & Inst. of Hindus, p. 4.

a fair number of original contributions, every chapter deals with a problem within its scope, and has something fresh in some measure, however small, in matter as well as in treatment. *Historical, critical and comparative* views have been taken of the subject in order to set it in its proper perspective, and to make philosophical delineation possible to some extent.

A strictly philosophical exegesis of the subject will demand the acceptance of a particular stand-point and ideal, which are applied to the different aspects and questions in a thoroughly consistent manner. Such a coherent and comprehensive system of political thought is scarcely to be met with in the whole range of Indian literature. It does not mean that the capacity for high political thinking was not cultivated to appreciable degrees. Undoubtedly there were political thinkers of daring and brilliance, whose reflections have done credit to their names. But no dominant idea, probably except Dharma, is available, which subordinates to itself the various current concepts of different strata and times, so as to form a solid system. They may at best be described as political reflections despite their depth and soundness, utility and effect. Nor was a coherently outstanding system formulated, which succeeded in bringing together others under it. The great Epic is a prominent example of such massing together of ethical, social and political ideas ¹. Consequently an effort to offer a systematic whole of the political reflections of the Hindu thinkers and to unravel their implications is a move in the direction of philosophical construction. Any greater pretension is impossible *prima facie* on account of the scantiness of materials developed age after age in strength and continuity.

¹ See *Infra*, Ch. IV, Popular Political Authority.

The difference between political facts and political theories is another point which has to be kept clear. In a running survey both tend to mix up invariably and unavoidably, since political theory almost always rises out of the criticism of political facts. The latter is utilised to elicit and illustrate the former. Recourse to this method is necessary, where principles require elaboration as in the Vedic period and that of the Republics.¹ Similarly ethical ideas are used according to necessity to aid and reinforce political idealism, because both are closely connected. Aśoka's home and foreign policy and the implications of Dharma are instances in point.² The same is true of certain important cultural ideals. Some economic concepts, such as fall under property and taxation, are imported into what is mainly a political interpretation in order to supplement political principles, for *ultimately* political ideals determine the principles of taxation and property.³

In dealing with all these topics, Indian thought has not forgotten what is and what ought to be—the actual and the ideal. The State as the medium for transmuting the one into the other requires politics to be saturated with ethical and spiritual perfection. The motive comes from dharma (righteousness), for “Dharma sustains, ennobles and fulfils the whole of life.”⁴ It inspires life with the revelation of the supreme end. In the opinion of Dr. B. Prasad “Dharma as such, touches human happiness at every point and real happiness on earth is bound up

¹ Ibid, and Ch. XVI on Republics in Supplementary Volume.

² See *Infra* Ch. IX. Freedom & Idealism and Ch. XIV, Phil. of Dharma.

³ See *Infra*, Chaps. XII & XIII.

⁴ Mahābhārata, Karṇa Parva, CXIX, 59 ; Matsya Purāṇa, XXLI, 29 ; CCXLI, 3, 4, Theo. of Govt. in Anc. Ind., p. 350 ; *Infra* Chap. XIV, Phil. of Dharma.

with that excellence which is summed up in Dharma".¹ In order to rise to the highest the State has to make use of all the economic, social, moral and spiritual forces, which are again supported and sustained by it. It encompasses all phases and relations of life allying itself with the forces of good and in this sense it is *architectonic* in nature.² Truly significant is the "Salutation" of the Jaina ascetic, Somadeva Suri, "to the State as the source of righteousness (dharma), wealth and satisfaction".³ Like the modern conception of C. D. Burns, here the State is truly the common good being identical with it as its source and security.⁴ "The State is truth in essence"⁵, (satyātmakāni rājyāni), is the last word in Hindu Philosophy.

Purely political topics, like authority, sanction and obligation, and questions of administration, legislation and other connected topics are made clear through illustrations and supplements spoken of above and also by means of comparisons. Hence comparisons and parallels between Eastern and Western political thought have been occasionally inserted for the better presentation of the subject as a whole and of the problems found in it. But analogy can never be perfect nor complete and necessarily a rough similarity is shown, as is expected, in all cases of this type. Too much stretching of analogies is studiously avoided, only the broad lines of approximation being pointed out from time to time, and these usually play an important part in the critical estimate of social, political and moral values.

The chronological development of ideas has been

¹ Theo. of Govt. in Anc. Ind., p. 350.

² Ibid.

³ Nitivakyamritam, I, p. 7—"Dharmārthakāmaphalāya rājyāya namaḥ".

⁴ See Democracy, Its Defects and Advantages, p. 91.

⁵ Rāmāyaṇa, Ajodhyā Kaṇḍa, 105, 9.

roughly followed up under every problem, but salient and attractive features have at times forced themselves up to unavoidable prominence and precedence on the strength of their own importance, even though their age could not claim for them any such pre-eminence. Effort has been made to trace the growth of thought layer by layer and epoch after epoch, so as to ensure the marshalling of the implicit connections precipitated by the flow of time. Yet it ought to be added that strict adherence to sequence is not practicable, when materials call for elaboration from the stand-point of the centrality of thought and ideal. Naturally and inevitably some ideas have risen to the surface pressed by the logic inherent in them, apart from the strata holding them together. Again ideas have repeated themselves and recurred in different ages, covering very long periods of history, as the common cultural heritages of the race. This span of time stretches over twenty-four centuries from C. 1200 B. C. to C. 1200 A. D. and supplies a truly vast field of ancient social and political speculation.

The thesis naturally falls into two parts ; political authority in some shape or other is the subject-matter of the first, while subsidiary principles are treated in the second. Some attention is given to keeping to a kind of order in the division and arrangement of chapters, but no absolute standard is possible in this respect. To meet this contingency the chapters are made self-contained more or less. A sufficient number of texts is furnished for all important theories and principles without unnecessarily over-burdening the pages with too many citations from original Sanskrit. Minor points, associated with the topics in every chapter, have been considered in notes, which form an Appendix at the end.

INDIAN POLITICAL PHILOSOPHY

CHAPTER I

TYPES OF THEORIES

Origin of the State

The origin and nature of the state received at the hands of early Indian thinkers treatment of various kinds from the most imaginative to the most rational. The general tendency to turn everything into mythology is much too profuse in ancient thought, and important truths are conveyed to the popular mind through myths and fables, symbols, parables and allegories of many types. It is underneath such data that strictly rational thought peeps out of the mass of parabolic teachings and spiritualised stories. Sometimes the same author will deal with the subject in both ways, as is illustrated in the case of the '*Manu-Smriti*'. One can hardly be sure under such circumstances about the real views of the author. Old traditions handed down from a long time are mixed up with fresh speculation without a thorough criticism of the former. There are, moreover, in later times a few attempts to synthesise the old with the new. Reverence for antiquity appears to have stood against any adequate criticism of the old mythological stories, which tried to present speculative thought on important social and political problems and gave a glimpse of truth, deep and high, out of the usual figurative clothing ; otherwise no satisfactory

explanation is possible for the rise as well as for the development of the theories of different kinds. Only a short survey is attempted in this section, showing the varieties of the theories of the state. Its nature is a question, which is taken up in a separate chapter, viz. the Theory of the Constitution and the Analysis of the State, although the Hindus did not evidently give much attention to such an analysis. In tracing the origin of the state its nature also became partially apparent, the two questions being intimately inter-related. Taken in conjunction with the nature of Kingship, a more comprehensive idea of ancient polity may be had from a comparison and contrast of the materials bearing on the subject.

(I) The historical birth of the state is a question which does not concern Political Philosophy ; its interpretation as a fact of human experience made the seers of old think about its nature when they tried to explain it in their own way. They looked upon it from the standpoint of their religious attitude to the world about them. The most ancient theory regarding the state is that it is of divine origin, a creation by the direct will of God. Professors Banerjee¹ and Bhandarkar² have accepted this view with reference to monarchy, which was the model of the state in olden times. Saraswati is of the same opinion³. Although their treatments are different in respect of details, they all agree as regards the general interpretation. Hence the state is interpreted as the "immediate work of God".

1. Divine Origin

In social theory the Divine Primal Person supplied an idea of unity behind the manifold elements of society.

¹ Pub. Admin. in Anc. Ind. p. 72.

² Carmichael Lectures, 124.

³ Hindu Rajaniti p. 29.

The same idea shows how the state is a manifestation of and a growth out of the divine. The oldest reference is contained in the *Purusha Sukta* (verses to the Divine Person) quoted below—

“The Brāhmaṇa was his mouth,
Of both his arms was the Rājanya made,
His thighs became the Vaiśya,
From his feet the Śūdra was produced¹”.

These verses are an effort at interpreting the political structure of the time from the standpoint of a pervading principle of unity, as in the case of the larger fabric of society as a whole. The co-ordination of the social elements is illustrated on the basis of these lines. A further development takes place, when the idea is applied to politics and to the state, as a political concept. Thus the source and the meaning of the Monarchical State may be traced here and it is perhaps the earliest available pronouncement of the sages of the Rig Veda on this question. In a figurative way it gives the source of society and of the state, as of the human race as it was then known to them.

(a) The ruling caste (the Rājanya) is said to be the “arm” of the divine body, being represented by other members, the other castes, signifying thereby that there is a spark of divinity, or its manifestation, in the monarch as well as in his subjects. But it is the divine power operating through the king that keeps society in order and makes government possible. In other words the king is a part of the divine order giving expression, under the conditions of time and space, to the very power of the

¹ Rig Veda, X 90, Griffith's Translation ; also Vana Parva, 182.

“Brāhmaṇosya mukhamāsidvāhu rājanyah kṛitah”.

“Uru tadasya yadvaiśyah padbhyāṁ śūdro ajāyata”.

(Lahiri's Ed. Vol. X. p. 351 ; Max Muller's Ed. Vol. II. p. 340.)

divine revealed in human society. The word "arm" shows the figurative use of the idea. It is confirmed in the Bhāgavata Purāṇa¹, where the rulers of men are spoken of as "the arms of the incarnate god Vishnu", and again later on as the "embodiment of his power"². In course of time this idea made the very person of the king divine, though not exactly in the sense of "the divine right of kings" which is treated in a separate chapter³.

(b) P. N. Saraswati, in his '*Hindu Rajniti*', clearly identified royal power with divine power in explaining the passage under review. And in the theory as much as in the practice of by-gone ages, "the ruling class represented this preserving force in the conservation of society, the king being the symbol, or the instrument, through which order ruled the world"⁴. Hence "monarchical power is divine power" is only a different proposition following from the Purusha Sukta of the Rig Veda and monarchy is shown to have its root in the metaphysical background of the universe⁵. Another authority, V. S. Ghate, follows Dr. Haug in giving a fuller explanation. Dr. Haug is also cited in Muir's Original Sanskrit Texts⁶. Mr. Ghate says, "The passage has no doubt an allegorical sense..... The arms are the seat of strength. If the two arms of the Purusha (divine person) are said to have been made a Kshatriya (warrior), that means, then, the Kshatriyas have to carry arms to defend the empire"⁷. The original word

¹ 111. 16. Hitavadi Edition. p. 113—"Chhindyām syavāhumapi vah pratikulavṛittim" (III, 16) i.e. "Svavāhusthāniyam lokeśvaramapi hanyām (Bhāvārthadīpikā, p. 143.)

² III. 16. Hitavadi Edition p. 115. "Kshemam janāya nijaśaktiviruddh-ritāreh" (III. 16). i.e. "Ata eva nijaśaktivi-rājādivirutpā-titadharmapratipakshasya" (Bhāvārthadīpikā, p. 145).

³ See *Infra*, the Divine Right.

⁴ Hindu Rajaniti, p. 9.

⁵ See, *Ibid* p. 29.

⁶ Volume I. p. 14.

⁷ Lectures on Rig Veda, p. 197.

"rājanya" of the verses is a class name and literally means "prince (and warrior)", and therefore by implication the ruling class, i.e., the Kshatriya caste. Commenting on the verses, Griffith in his translation of the *Rig Veda* says—"The arms of the Purusha became the Rājanya, the prince and soldier, who wields the sword and spear—the second or Kshatriya caste, the royal and military class"¹.

Subsequent movements of political thought grew more and more abstract, as they became necessarily deeper, and learnt to assimilate social facts. The *Mahābhārata* and the *Manu Samhitā* illustrate these tendencies. It is curious that the Vedic seers took no proper notice of the origin of the state. It might have been due to sacerdotal tendencies, which also changed with the advance of time. A more refined figure of speech will thus be found in the Epic account of the state, while in thought that is quite original *Manu* leaves all behind in rising to an abstraction of the State, which is cut off from society and human nature. All these undoubtedly mark the gradual clarity and progress of philosophical as well as political thought, and the important cultural progress of the age.

2. Mixed Origin

The *Mahābhārata* gives a fuller and more comprehensive account of the divine origin of the state deductively from religious mythology and provides also an explanation, which tries to elucidate the construction of society by the same method. It is mixed in the sense of combining the influences of different types of thought and is the most mystical of all the theories. The intimate intercourse between gods and men in the Epic accounts is almost Homeric in character and the fanciful details are interesting as well as suggestive, even though inexplicable in some ways.

¹ Griffith's *Rig Veda* X. 90, Vol. II. p. 519.

"In the Kṛita (golden) Age there was no sovereign, nor king. All men used to protect one another righteously. Soon after they were assailed by moha (infatuation) and in its train followed bhoga (greed), kāma (passion), and rāga (unrestrained indulgence), and confusion thus set in and the Vedas (knowledge) and Dharma (righteousness) were lost. The gods were overcome with fear and repaired to Brahmā (the god of creation). 'O Lord of the three worlds, in consequence of the cessation of all pious rites among men, great distress will be our lot. Please therefore find out means that the *Natural Law* may not be destroyed, which was established out of your own power'. Thus addressed, the god composed the treatise treating of Dharma (righteousness), Artha (wealth), Kāma (right desire), Moksha (salvation), for the guidance of men. This was abridged many times to suit the needs of men who were becoming more and more short-lived and consequently the plan failed and something else had to be done. The gods then approached Viṣṇu, the god, who preserves creation. This god created by a fiat of his will a son born of his *tejas* (lustre, effulgence) named 'Virāja', who took to an ascetic life. His son Kirtiman was like the father, then followed Kardam, Anaṅga, Atibal, Veṇa and Pṛithu. Veṇa was killed for misrule, but Pṛithu was elected in his place on taking the vow of an understanding with the people. He was really called to the throne. The divine Viṣṇu then entered into the person of the sixth monarch of this dynasty, hence the king is called "Nara-Deva" or a god in human form".

Here the entry of the divine element into the human is described as taking place through the king, who is the

instrument, as it were, for such an operation.¹ The mystic element is also more elaborate in the Epic quasi-political thought than in its Vedic counter-parts, a full-blown story taking the place of simple assertion.

It is further told in the epic that "a king conversant with Daṇḍa-Nīti, i. e. the science of punishment, is really a portion of the god Viṣṇu on earth".² If the social element at the beginning of this account is subtracted, a close resemblance may be seen to the declaration of the S'atapatha Brāhmaṇa in the next section and to Manu's doctrines, particularly, of kingship.³ The basic thought in all cases is the entry of the divine through the king as the medium. Evidently the Epic theory has gathered up the influences of heterodox thought, the effect of the old custom of the election of kings, to suit orthodox interpretation and thus marks a real advance almost to the very edge of the theory of the social contract. Probably orthodoxy had to slacken off, or was opposed successfully, before the contract theory could rise to the surface. But political ideas were becoming abstract as well, and divested of figurative clothings, so as to drop as much as possible all unphilosophical concepts.

3. Abstract origin

(c) In the Manu Samhitā the same theme occurs only in a more abstract form. The legal side of the subject naturally comes into prominence in a book of ancient laws.

¹ Śānti Parva, 59 (abridged and adapted). See M. N. Dutt's Trans. vol. II. p. 85 ff. It is different in many respects, perhaps due to the textual differences in the absence of a good redaction.

² This is practically like the idea of Irenaeus—"A ruler is not only the minister of God's remedy for sin, but the instrument of His punishment" (Carlyle, Hist. of Med. Pol. Theory, Vol. I. p. 148. Carm. Lec. p. 129).

³ Infra, Theory of Kingship.

The sceptre is personified and spoken of as the emblem and authority of the State. This abstract conception of the sceptre in its representative capacity becomes not only the source from which the State comes into being, but also that of its authority. It chastises, preserves, corrects and destroys. It is the representative of righteousness and is the son of the god, Brahmā, who created the universe and all that is in it.

"In ancient times for fulfilling the object of the state (kingdom) the god Brahmā created out of his own lustre the royal sceptre as his own son of righteousness for the protection of all beings. This sceptre indeed is the king and the royal power, is the person (energy) and ruler of the state and is the representative (guarantor) of Dharma (righteousness in all the four stages of the lives of the people".¹

The last line of the last verse admits of a second explanation, viz. the sceptre may be taken as the representative of the Dharma (law) of the people as well as of the people themselves. The commentator Rāghavānanda has added the important point that "daṇḍa was created before the creation of the king."² That is to say the king who uses the sceptre (daṇḍa), is an agent to the state for the purpose of its efficient working. The state does not arise with the

¹ Manu Samhitā VII. 14, 17.

"Tasyārathe sarvabhūtānām goptāram dharmamātmajam
Brahmatejomayam daṇḍamaśrijat pūrvamīśvarah
Sa rājā purusho daṇḍah sa netā śāsita cha sah
Chaturpāmāśramanācha dharmasya pratibhuh smṛitah".

(Nyayapanchanana's Ed. pp. 345-6).

See S. B. E. XXV. p. 218, where Buhler has translated the word "daṇḍa" as "punishment", but "daṇḍa" is the royal sceptre as well and more often so in common use. In fact the sceptre is supposed to be the instrument for inflicting punishment.

² Mandlik's Edition of Manu, II, p. 761—"pūrvam cha rājāśṛiṣṭeh iti"

king, on the contrary it goes to create the office of kingship.

This appears to be a very abstract way of idealising the State in the symbol of the sceptre and is in fact an apotheosis of the royal sceptre itself. In the theory of the authority of the State, which comes into operation in taxation and punishment, an important part is played by the doctrine of *danḍa*, the sceptre.¹ The source of such authority is traced back to it; it is this which holds the people in general, as well as the king himself, under its sway. As an instrument of punishment the sceptre is clothed with moral authority of law and order (political and social). It is powerful enough even to destroy the monarch himself, who wields it for the preservation of the State, when that very preservation is jeopardised by his own conduct.² This abstraction of the source of sanctions necessarily stands above Law and makes Manu's politics more than Austinian in character, ultimate sovereignty being pushed back into the symbol of the sceptre itself. Śukra has in the same strain idealised the royal seal—"The king's seal is the real king, the king is not the king"³. But this is only a passing remark by Śukra in no way connected with his principal theory. Mr. Jayaswal has hinted that this peculiar theory of *danḍa* of Manu was arrived at evidently on revision in contradiction to the other theories of the Mānava code.⁴

Professor P. N. Banerjee seems to use the point in the theory⁵ by taking up a different verse from the law-giver Manu. It treats of the king as a special creation of God and reference will be made to it under the section on the nature of kingship. Professor B. K. Sarkar in his Political

¹ *Infra*, Section on the Doctrine of *Danḍa*.

² *Manu Samhitā*, VII, 17, 19 ; See S. B. E. XXV, p. 219.

³ *Śukra Niti*, p. 90.

⁴ *Manu & Yājñavalkya*, p. 98.

⁵ *Pub. Admin. in Anc. India*, p. 71.

Theories and Institutions of the Hindus¹ strikes at the real issue by pointing out that the king is only the "Daṇḍa-Dhara"—the holder of the sceptre—as a public office. This common appellation comes from Kāmandaka and Śukra, who have called the king "Daṇḍa", the sceptre itself and "Daṇḍī", i.e., the possessor of daṇḍa or sceptre.² In dealing with the divine origin of the State it ought to be remembered that the most important element in it is the entry of the divine somehow or other into the human organisation of society concentrated into the State. This element in the two instances is the lustre or effulgence of the two gods Viṣṇu and Brahmā, out of which the creation of the State has become possible as from a root or basis. Professor Bhandarkar has shown it clearly as an aspect of Hindu political thought.³ Similarly Professor Banerjee has quoted Manu Śāṁhitā, VII. 3⁴, which has been treated in a separate section according to the nature of the subject-matter of the verse. It is left out here in view of its special application to the nature of kingship. Closely connected with this abstract theory is Kāmandaka's conception of "Prabhu-Śakti" or masterly (sovereign) power⁵, also expressed as "prabhāva" or simply power, as in the Mahābhārata and the Nītivākyaṁṛitam.

(II) The most popular theory of the origin of the State

¹ Pol. Theo. Inst. of the Hindus, p. 180.

² Nīti Sāra, pp. 19, 23 & 25.

"Damodaṇḍa iti prokta statsthyād daṇḍo mahipatih"

"Prajānām cha tatah samyag daṇḍam daṇḍiva dhārayet".

(Ganapati Sastri's Ed. pp. 30, 36).

S'ukra Nīti, p. 22. Sukra has the same verse word per word.

"Damodaṇḍa iti khyāta stasmāddaṇḍo mahipatih". (Vidyasagar's Ed. p. 36). vide, p. 169 infra and Jolly, Hindu Law and Custom p. 263. (Eng. Trans.)

³ Carmichael Lectures, p. 125. ⁴ Pub. Admin. Anc. India, p. 71.

⁵ Nīti Sāra p. 193—"prabhāva"—p. 6. Also Nītivākyaṁṛitam, p. 322 : Mokshadharama parva, 321, 1151. Vide infra Chaps. VIII & X.

is that of the social contract and it is one of the oldest considering the numerous direct and indirect references to it in Sanskrit Political literature. It is also the most common, in as much as it is invariably found in some shape or other in all the works of practical Hindu politicians. It is either quoted or alluded to by almost all the authorities and seems to have been accepted without much criticism. The Buddhist version is natural enough, as will be seen below, but has not the positive critical outlook of Locke and Hume on the contract basis of naturalistic politics. The earliest mention of the root idea is in the R̥ig Veda without any political significance and the latest is in the inscription of a mediaeval king of Bengal of the Pal Dynasty, when the phrase was already well known and was partially proverbial.¹ Coming between these are the allusions in the Manu Samhitā, the Mahābhārata, Artha Śāstra, Matsya Purāṇa, and the Kāmandaka's Nīti Sāra. It is the conception of imaginary anarchy tersely depicted in the phrase, "*the logic of the fish*", that served for the starting point of the theory, and its Western analogues are Spinoza's "natural right" in his Tractatus Politicus and Hobbes' "general war" in his Leviathan. The references, given in the note at the end of this work, show how prevalent was the central idea of the social contract theory in Ancient India.

4. Contract Origin

In the Buddhist Literature (Pali) there does not seem to be any reference to the famous phrase, "*the logic of the fish*", which is so frequent in the Sanskrit works, but the social contract theory is clearly recognised as an account of the origin of the state, and it appears to be its earliest

¹ See Infra, Note on Election.

form. Its simplicity and naturalness are points of great importance. It seems that the substance of the theory is maintained, while the popular Sanskrit phraseology is absent¹.

"So they gathered together and made one of themselves lord over their field with these words :— Henceforth thou shalt punish those of us, who deserve punishment, and recompense those of us, who deserve recompense, and we shall give thee (for this work) a portion of the produce of the fields and of the fruits collected by us".²

This account is in connection with the election of the Mahāsammata or the first king. Another version of it from the Digha Nikāya is quoted by Professor Bhandarkar³ and it relates, like the Mahābhārata, how people were at first good and righteous, but their nature in course of time underwent a change for the worse, which necessitated the election of the Mahāsammata. Therefore they chose the most handsome, gracious and powerful amongst them saying :—"Come here, O being ! Do punish and revile and exile those, who will deserve to be punished, reviled and exiled. We will give you a portion of our rice", for this service. He was called Rājan (king) for pleasing the people⁴ and ever since the idea has become proverbial. A critical estimate of the Buddhist view of contract is attempted in the chapter on Popular Political Authority together with its other associated traditions.

¹ The problem of the proverb of "the logic of the fish" has still to be solved in relation to the Buddhist contract theory.

² Rockhill's Buddha, p. 7.

³ Carmichael Lectures, p. 118 ; See Ghosal's Hindu Pol. Theo. p. 119.

⁴ Aggañña Suttanta of the Digha Nikāya, III p. 92 ff. An identical account is given in the Mahāvastu (Senart) I, 347. Sānti Parva, 59, has the same root and meaning. Mr. Jayaswal has suggested a scientific philology, See Chs. II, VIII. and also IV.

In the Śānti Parva,¹ is found the account of the social contract theory in its unmixed form and fullest details. It is in substance as follows :—

“In olden times there being no king on earth men began to eat one another like fishes. Then a few righteous men assembled together and made this rule that any one who would be harsh, haughty, adulterous and theivish was to be deserted by the rest. In order to rouse trust in all, the people made this law and spent some time well. But at last they went to the creator of all men, the god Brahmā, with great sorrow and anxiety and said, “Lord, we perish for want of a king, so please give us a king, who will protect us and we shall worship him”. The god Brahmā having heard this complaint ordered Manu to be king over them. But Manu declined saying :—“I am always afraid of sinful acts ; government, which means making wicked men righteous according to law, is a difficult task”. Then the people told Manu not to fear, because sin would not be allowed to touch him. They would, for supplying him with finance, give him animals, 50th part of gold and 10th part of paddy. In case of quarrels, vice, gambling and toll-taking he would get beautiful girls (as fine). And those, that are qualified in using weapons and riding animals, would follow him as gods follow their chief. Then he would be able happily to protect them like Kuvera (the god of wealth), so rich and powerful. They would also give him the fourth part of their religious merit for being thus protected by his prowess. Manu was further advised to march forth like the Sun-god to

¹ Chapter 67. (Only the substance of the account is given in short).
Dutt's Trans II, p. 98.

victory over the enemies and to crush their pride. Thus might dharma (righteousness) always protect them.

The narration of the contract here not only touches the questions of trust on the part of the people themselves, but enunciates those that are supplementary though none the less important, viz. finance, army, punishment and religion. All these elements so necessary for the State are also connected with this compact. The theory itself might have risen under the indirect influence of the old tradition of the Vedic practice of election modified by monarchical tendencies,¹ yet it is not a mixed theory like the one dealt with in a previous section. The note will illustrate its wide-spread acceptance, whatever might have been its source. That the account of the Mahābhārata is probably one of the oldest and fullest form of this type of political thought is corroborated by the simplicity of the narrative as well as the well-rounded shape of the story,² in short by its developed character.

5. Rational Origin

(III) The ethical idea of 'Dharma', as truth and righteousness, is also applied to politics, so as to supply the foundation of the State. Underneath the various types of Hindu political thought, strangely mixed up with mythology and even rationalism, there is found this natural perception of moral qualities to be the basis of society and the essence of human nature. Dharma expresses the totality of the moral qualities called virtues, and the Hindu theory in this respect is not very much different from that of the Greeks. The philosophy and analysis of

¹ *Infra*, Popular Authority, also Cf. Vedic Index, II. p. 213.

² Cf. Carmichael Lectures, p. 119.

'Dharma' make a separate chapter, while the conception itself is treated here as contributing to the evolution of the highest social structure, the State.

Dharma (righteousness) is natural to man and is the law of his being. The Mahābhārata points out the fact by saying that "Dharma is followed as a necessity, like eating and drinking for the maintenance of the body".¹ It is regarded as a natural need. Even so late a writer as Śukra, with all his practical insight, felt that "without nīti (the system of morals, i. e. dharma) the stability of no man's affairs can be maintained, just as without food the physical body of men cannot be preserved". "It (the science of morality) is considered to be the spring of virtue, wealth, enjoyment and salvation. It is useful to all in all cases and is the means for the preservation of human society".²

In the great Epic this doctrine of Dharma rises into prominence and supplies the highest possible idealism to political philosophy in ancient India. Dharma (righteousness) is said to be 'the root of the people and the immortality of the gods'³—the eternal source from which mankind as a whole has sprung. And again "dharma is established for the course of the world"⁴, i.e. all human affairs depend on it. It is then directly identified with the course of the world itself⁵ and coalesces with it, as the very principle underlying the activities of mankind. In other words the main spring behind the affairs of the world is righteousness, like the Universal Reason of the Stoics. This is why the earliest Aryan record, the Ṛig Veda, said that "god Varuṇa's righteous law established order"⁶

¹ Śānti Parva, 158.

² Śukra Nīti, p. 2.

³ Mokshadharma Parva, 193.

⁴ Śānti Parva, 15 ; Mokshadharma Parva, 259.

⁵ Apaddharma Parva, 142.

⁶ Ibid, IV. 40.

and this "Order dwells amongst men, in truth, in noblest places"¹. By this was meant that human society is supported by divine law, as an expression of order or system based on reason that works in the world.

The Mahābhārata applies this idea to the social structure in general and to the State in particular. The formation of society through social and political instinct is the operation of an indwelling principle abstracted and objectified as *truth*. In fact, the place of this instinct is taken by truth; it may also be indirectly called by the name of truth. So it is declared—

"All is supported by truth, all is established in truth." "Through the power of truth, men though sinful and haughty, formulate laws (or rules of binding) among themselves and then live in unity forsaking mutually harmful thoughts. And if they break loose from this chain of order, surely all will perish in their turn"². For "human constitution itself is created by God pure, sacred and *dharma-natured* (i.e. having dharma as its nature)"³.

Nilakanṭha suggests in his commentary that—

"Even the sinful cannot leave out truth" and hence "the promise" or binding.⁴

¹ Ṛig Veda, I, p. 523.

² Mokshadharma Parva, 259—

"Satyena vidhṛitam sarvaṁ sarvaṁ satye pratishṭhitam.

Api pāpakṛito raudrāḥ satyaṁ kṛtvā prīthak prīthak

Adrohamavisamvādam pravarttante tadāśrayah

Te chemithodhritim kuryyurvinaśyeyurasamśayaṁ" (Bengal Ed.p. 595)

Here the truth, that underlies promise or compact, is spoken of.

(Interpreted on the lines of K. P. Sinha's version, p. 1104).

See M. N. Dutta's Trans. Vol. II, p. 385.

³ Vana Parva, 182.

"Nirmalāni śarirāni viśuddhāni śarīrinām

Sasarja dharmatantrāni pūrvotpannah prajāpatih". (Beng. Ed.p. 460)

⁴ Bombay Ed. of the Mahābhārata, p. 120.

Now the question of the nature of truth and its connection with righteousness are similarly answered in an idealistic way. The shortest definition of truth is—"Satyam yathārtha bhāshanam bhutahitañcha"¹—i.e. truth is speaking out of the right thing and is the good of all beings :—it is "the common good"². It is not merely intellectual but metaphysical as well. Truth is made the root and source of righteousness—its essence and self—in the Epic, which says

"Dharma is protected by truth"³. "And no Dharma is possible without truth"⁴. "Truth is the container of Dharma and is Dharma itself."⁵

In the human mind dharma is kindness, friendship and goodwill.⁶ In the outside world "dharma is the security of all beings"⁷ and it is the highest and the only good⁸. Moreover it consists in the carrying out of that good⁹. Therefore the natural conclusion is that "all beings live by dharma"¹⁰, and "in its absence none can remain alive"¹¹. The action of dharma is thus the socialising of the individual and no individual can be without it, if he wants to live at all.

The state can facilitate this process of the evolution of righteousness in society, in as much as "the king is created for the preservation of dharma (righteousness).....and he is the very likeness of dharma.....which lives in the shelter of kings"¹². This is expressed in short

¹ Hindu Raja-Niti, p. 74. See Savdakalpadruma for similar thought. Cf. "Highest truth is itself reflected in the good, who are peaceful and friendly to all beings". (Yogavāsishtha Rāmāyana, p. 54).

² Vana Parva, 211 ; M. N. Dutt's Trans., Vol. I. p. 321.

³ Udyoga Parva, 33.

⁴ Ibid, 34.

⁵ Mokshadharma Parva, 162. ⁶ Mokshadharma Parva, 259, 260, 262.

⁷ Ibid, 262.

⁸ Prajāgara Parva, 32 ; Śānti

Parva, 90.

⁹ Anusāsana Parva, 105.

¹⁰ Śānti Parva, 90.

¹¹ Anusāsana Parva 61.

¹² Śānti Parva, 90.

by saying that "the state is the root of dharma"¹. Hence "the king and dharma are inter-related" within the state and are mutually helpful². All types of Dharmas, i.e. laws of righteousness—moral, social and economic—are concentrated in the Ethics of the State.....thus "politics is the core of all dharmas"³. And "the king (representing the state) secures salvation for the people"⁴ even by his own austerities. The conception of the highest development of the individuals within the state is common to a certain extent to the Greeks as well as to the Hindus, both having perhaps the same type of mind from their ancestors before the time of their separation and migrations. The peculiarity of the Hindu ideal is its spiritual character running through everything. The highest good in the state is not an exception and so it is religious salvation. E. B. Havell has remarked, "Indo-Aryan Polity.....was firmly based on the principle that right is might, or as the Mahābhārata puts it that "the heavens are centred in the Ethics of the state"⁵. (Dr.) N. N. Law has briefly explained the Hindu conception in connection with the religious ceremonies performed by the great kings of antiquity. "The ideal of the state as set forth in the Epics and later Sanskrit literature is the attainment of the summum bonum, i.e. *moksha* or salvationthe state is the machinery of the collective attainment of salvation (*moksha*) by the the people under its care through the fulfilment of their legitimate desires"⁶. The assurance is found in the great Epic that "just as the sun dispels darkness at dawn, so politics having come into operation saves men from the fears of invisible hell!"⁷.

¹ Vana Parva, 4.

² Ibid, 30.

³ Śānti Parva, 63.

⁴ Aranyaka Parva, 2.

⁵ Aryan Rule in India, p. xiv.

⁶ Aspects of Ancient Indian Polity, p. 144.

⁷ Rājadharmānuśāsana Parva, 57.

Attention has been drawn by Arabindo Ghose to this colossal task tried in ancient India. "The co-ordination or true union of the collective outward life with moksha, the liberated spiritual existence, has hardly ever been conceived or attempted, much less anywhere succeeded in the past history of the human race"¹.

Before going into the next topic on kingship a few words are necessary to distinguish, in theory at least, between the Hindu treatment of the origin of the state and that of the rise of kingship, as two separate institutions within the larger organisation of society. The state being by nature more general is connected more closely with society, as a direct and necessary growth out of it. It is the concrete side of the abstract need for government of any form, monarchical or republican. Monarchy from this point of view is only a specialised development out of the state itself, as has already been remarked in passing at the beginning of this chapter. Yet both monarchical and non-monarchical states may issue straight from society without the assumption of any intermediate political form such as oligarchy², even though it may not always be the rule. The history of Indian republics has a lesson to teach in this sphere in their rise, growth and decay³. Mr. Gopala Row's view in his "Self-government in Ancient India" is that kingship was established after a number of political experiments on the Indian soil. "Montesquieu.....seems to have been of opinion that the best form of government need not necessarily be a republic only.....It may safely be inferred that our ancestors tried all the three forms of government,

¹ See A Defence of Indian Culture by Arabindo Ghose, Arya, Dec. 1920, p 238.

² Ibid, Oct. 1920, p. 172 ; Bharatiya Rashtra Naitik Pratibha by Anil Baran Roy, pp. 13-14.

³ See Sec. on Republics & Republicanism.

viz., monarchy, oligarchy, and republic, and after gaining due experience of all, at last, preferred monarchy to the other two forms and finally adopted it as their ideal¹. Thus whenever kingship is said to originate direct from society at large, it stands for the monarchical state, while the introduction of the problem of the royal authority in itself, apart from the general social back-ground, seems to mean the justification of mere kingship untainted by any naturalistic politics of anti-theological type, the circumstances which necessitated it being untraceable today. The former is in reality a kind of theory of the state—monarchical—and the latter is practically an explanation for kingly power or royal office, as different from a concrete institution or a part of society, as a natural phenomenon. A careful study will show that the distinction holds good and the separation can be made, although on the surface this is not so evident, as it is expected to be.

The general tendency of Indian monarchical politics is represented in the canonical position of the law-givers, which is abstract in respect of rights and duties. This is the cardinal error of all theological politics in dogmatizing from abstract data detached from social facts.² It is to be remembered that politics does not grow in a social vacuum ; and political institutions belong to a social structure as its parts.³ A philosophical treatment on the contrary should take the whole into consideration yielding greater scope for critical thought.⁴ None of the old Hindu theories is in this sense thoroughly philosophical, since they are invariably at some place or other mixed up with mythology. The social contract is the

¹ Self-Government in Ancient India, p. 5.

² See next Chapter.

³ Cf. Democracy ; Its Defects and Advantages, p. 53.

⁴ Cf. Bosanquet's *Phil. Theo. of the State*, p. 1.

purest from this standpoint, while exceptions are met with in Kauṭilya, Kāmandaka, Śukra and others. But they are theories of the state as a whole, because of the fact of their taking society and social factors into consideration, as opposed to and contrasted with the dogma of legal and theological politics. Speculation on the state ought by all means to be founded on some sort of social theory, however vague and indistinct, in order that it may not be cut off from natural moorings. In fact no political theory is possible, which is not at the same time a social theory in itself. This point deserves to be carefully noted as it is missed so often in Hindu politics.¹

Yet it cannot be said with Professor Dunning that "the oriental Aryans never freed their politics from the theological and metaphysical environment in which it is imbedded today".² It is unfortunately too sweeping to be true. The growth of political science and concepts cannot go on apart from their back-ground. That Hindu political thought was always passing on to the side of the secular school is sufficiently evident in ancient literature on the subject. The two schools of thought, secular and canonical, are distinct and stand separate from each other. Much mixing up of materials from both schools may be due to remote ancientness and the loose interchange of ideas in a later time. The "positive point of view"³ in politics in all important matters was not wanting in any period of Indian History.

¹ See A. K. Sen's "Ārtha Śāstra & Śukra Niti" in *Calcutta Review*, September 1925.

² *Hist. of Pol. Theories, Anc. & Mod.*, Intro. XIX.

³ *Studies in Hindu Pol. Thought*, p. 4 ff.

CHAPTER II

TYPES OF THEORIES

II. Nature of Kingship.

"The government, which in the usual way organised the Aryan States, was absolutely one monarchical. Conformably to their origin from the family they could hardly be expected to be otherwise".¹ This important statement of Zimmer is reflected in other departments of Aryan life. P. Von Bradke has remarked in his "Dyaus Asura" that even "Aryan Theology was essentially monarchical in character",² and this is certainly the main trend of Aryan political thought throughout their ancient sacred literature, as well as the later books of law. They thought little of systems other than monarchy, although there are traces of political experiment and speculation of several types in olden times. Monarchy is extolled in the great Epic, the Mahābhārata, and in the stupendous book of law by Manu. The origin of Kingship is mythologically depicted in many places and so theories of monarchy may be traced stage by stage down to the practical treatment of the subject in the works of actual politicians like Kauṭilya and Śūkra. Political thought in ancient India gave more attention to the rise of monarchy than to any other form of government;³ even in the then Republican Traditions, associated with the

¹ Altindisches Leben, p. 162, "Die Regierung der in der angegebenen Weise gegliederten arischen Staten was durchaus eine monarchische. Gemass ihres Ursprungs aus der Familie lasst sich dies auch kaum anders erwarten".

² Griswold, Religion of the R̥g Veda, p. 47.

³ Vide Supra, Ch. I, the Theory of the State.

existing republics of olden days, the treatment of republican principles is very scant as well as rare. It seemed just as if a "State of Nature", in the sense of the crudest possible equality, was accepted as being prevalent among men in an unorganised state of society. It has been already seen how they theorised about the origin and nature of the state. Hence their problem—at least one side of it—was not how republican or democratic polity was established, but rather how kingship rose and developed and became the general form of government. Naturally the great bulk of Indian political literature deals with the subject as a fact to be explained from different angles of vision.

Theoretical Aspects

The type of thought represented below may be rightly called the Theological Theory of Politics.¹ In India monarchy was specifically the subject treated by the orthodox legislators, who in their own periods laid down and codified the sacred laws. Society was accepted as it was, and they showed no effort towards any new theoretical reconstruction, more than the orthodox recognition of old regulations more or less stereotyped through the ages. The Hindu theory of Kingship, in its canonical exposition, is set mostly on the same key as that of the society of the time, and it must be added that the patriarchal bias of society was stronger in those days and was applied to politics reinforced by religious ideas. The deep and abiding influence of sacred law not only affected political history to a considerable extent, but equally left its indelible impression on the speculations of secular political writers of daring independence and startling originality.

¹ The phrase is used by Figgis, in his *Divine Right of Kings*, p. 13.

(a) As early as the time of the Atharva Veda political thought began to take shape in an abstract and mystical fashion disjoined from the events of practical life, which in the R̥g Vedic time were generally the immediate occasions for drawing people's attention to the affairs of the government. But the religious tendency of the age did not permit any political thought to be purely political. The extract given below shows a wonderful metaphysical grasp of the source of power that moves the universe, and eliminating its religious colouring, it seems to be a significant hint at the infinite spirit working through man, whenever it is allowed to do so by man's own willingness. This is "*tapas*" or fervour of the spirit manifested in the practice of austerities and partly through sacrificial rites. It can achieve all things and is the active principle of the "finite-infinite" nature of man. It is power itself capable of endless expansion. Kingship is said to be the result of this power—

"Desiring bliss at first light-finding sages

Began religious rite and holy fervour,

Thence energy was born and might and kingship,

So to this man let-gathered gods incline them".¹

It has to be noted that the "*tapas*" mentioned here is quite different from that occurring in the Mahābhārata and the Śukra-Nīti cited in connection with Political Authority.² This is an objective concept of supernatural power rising out of the combined efforts of the sages. Personal religious merit securing high position in succeeding births is merely an exposition of the Law of Karma (work) in the chain of transmigration. This is not meant in this connection. It is like the corporate intercession of the modern time, less theistic, but more transcendental in character.

¹ Atharva Veda, II. p. 298. Griffith's Trans. ² Chapter IV.

Though the earlier Yajur Veda and the Śatapatha Brāhmaṇa carry the Ṛig Vedic idea in its most rudimentary form, without further amplification, it is never a clear-cut theory free from vagueness and haziness. Excepting the Ṛig Vedic quotation in the previous section, only a bare touch of the idea is found in these two books. The statement of the Ṛig Veda has been treated fully under the theory of the state, because of its reference to the several castes, which form the elements of the social structure. It is, however, only alluded to here illustratively, in conjunction with the other two statements to be considered now. In the Śatapatha Brāhmaṇa¹ it is said "that the Rājanya (i. e. the kingly or the ruling class) is most manifestly of Prajapati (the god of creation)". This is in reality only a specification of the Ṛig Vedic notion applied particularly to kingship viz., "The Rājanya (the kingly caste) is his arms", i. e. of Divine Primeval person.² It will be seen how it is a mere speculation and not a logically developed hypothesis, for which such ancient works were perhaps too early. Professor Keith has shown that "among men the rule of the Rājanya is explained on the ground that he is the representative of Prajāpati, thus being entitled, 'though one to rule over many'. It is however, dubious whether this should be regarded as precisely a doctrine of the divine origin of kingship in any specific sense.....The ceremony of the Rājasūya hints at recollections of an elective kingship by the consent of the people".³

Another similar thought occurs in the Yajur Veda, though it is slightly different in application. The king is there identified with Prajāpati (the god of creation)

¹ V. 1. 5-14

² Ṛig Veda, X. p. 90.

³ Religion and Philosophy of the Veda and the Upanishada, II, p. 481.

temporarily during the time of sacrifices,¹ that is, the king holding the sacrificial rite functions like the god of creation, Prajāpati. Dr. N. N. Law remarks in his 'Aspects of Ancient Indian Polity'²—"In the Soma sacrifices dealt with in the Yajur Veda and its Brāhmaṇas, he (the king) as the sacrificer becomes identified with Prajāpati (the god of creation) *protempore*". It is to be observed that nowhere in the Vedas is kingship completely identified with divinity, but the root of the ruling class as a whole, which made government possible and through whom the state as a human organization found an articulate and stable expression, is traced to the divine³. An element of the divine is the cause of the class of men needed for ruling and governing and they are the translation into human terms of this divine element, which is after all the background of society. Government, based as it was on the ruling class, is merely a growth in a different shape out of their divine substratum.⁴

(b) A further development is found in Manu, the law-giver, who dissociated the idea of kingship from metaphysical concepts, but still retained for it some theological colouring, as the case is with Hindu Law in general. Manu explained the monarch as the special creation of God for the preservation of the 'peoples', i.e. society.

"In a ruler-less world people will be troubled by the powerful, dispersed with fear.

Hence for the protection of all the Lord created the king".⁵

Here it is clearly noticeable that an explanation is offered for the royal office and also there is some

¹ S.B.E., XLI, p. 108-10.

² p. 146.

³ Supra, Theory of State, p. 3.

⁴ Ibid, p. 3.

⁵ Manu Samhitā, VII, 3.

"Arājake hi lokesmin sarvatovidrute bhayāt
Rakshārthamasya sarvasya rājānamasṛjāt prabhuḥ".

trace of the contract idea occurring in the same chapter of the same book.¹ But Manu probably does not like to make monarchy an entirely unspiritual conception. It is fully in keeping with the spirit of Hindu legal literature. Figgis has used the phrase "the choice of God" with reference to analogous political theories in the West.² As has been seen already, Manu went deeper into the theory and made it more abstract ending in an apotheosis of the royal power represented by the royal sceptre, and reference has been made to this in connection with the origin of the state.³ It is also evident that the great legislator tried to combine natural and theological sanctions for kingship.

(c) The divine element in kingship is illustrated in another way in the Manu Sāṁhitā as well as in the Mahābhārata. The idea represented is of the same type as the divine origin of the state. It becomes specific, inasmuch as it is applied to the individuality of the king concretely according to the several duties discharged by him. The king is said to be functionally divine thus :—

"According to time (and circumstances) the king puts on the character of the five gods—Fire, Sun, Death, Kuvera (wealth) and Yama (justice); when he burns down with his own brilliant lustre the liar, who has deceived by means of lies, he is in the character of Fire; when he looks into the works of the subjects through the spies and thus does them good, he is in the character of the Sun; when he is angry and destroys the unrighteous with their sons, grandsons, relatives and friends, he is in the character of Death; when he punishes the criminals with

¹ Vede Supra, Theory of State.

² Divine Right of Kings, p. 47.

³ Supra, Chapter I, Origin of the State.

condign punishment and rewards the innocent, he is in the character of Yama (justice); when he pleases with rich gifts those, that render help, and confiscates the wealth of those, that do harm, he is seen to be in the shape of Kuvera, the god of wealth¹.

Manu gives a different statement of the functional activities of the king in imitation of the duties of the gods. In the 9th chapter or the Manu Sāṁhitā the seven gods and the one goddess mentioned in this respect are, (1) Indra. (2) the Sun. (3) Wind. (4) Yama (5) Varuṇa (5) the Moon. (7) Fire. (8) the Earth. The functional similarities are shown in the following verses of which only a free translation is attempted.

“ (1) ” As Indra sends down rain for the crops, so the king showers favours on the good. This is imitation of Indra's character. (2) As the Sun draws water by his rays, so the king realises tax from his kingdom..... This is imitation of the Sun's character. (3) As the Air (breath) travels within the body, so the king enters into the enemy state through the spies. This is imitation of the character of the Air. (4) As Yama (death) seizes all at the proper time, so the king punishes all whether beloved or not. This is imitation of Yama's character. (5) As sinners are held in the noose of Varuṇa securely and in the view of all, so the king finds out the criminals until they are repressed completely. This is imitation of Varuṇa's character. (6) As people at the sight of the Moon, so the subjects ought to be gladdened by the king. This is imitation of the Moon's character. (7) Like fire, the king should be intolerable to the doers of misdeeds and harmful to

¹ Śānti Parva, 98. See Nārada, XVIII, 26 ff. S. B. E., Vol. XXXIII, pp. 217-218. He follows the Epic closely and is different from Manu.

the enemy. This is imitation of the character of Fire. (8) As the Earth maintains alike the high and the low, the moveable and the immoveable, so the king ought to support all beings, rich and poor, qualified or unqualified, strong or helpless. This is imitation of the character of the Earth."¹

It seems that the Mahābhārata only adopted in short the details of Manu, although no historical connection can be logically established between them. Manu is more exhaustive and the functional similarities are more to the point.

(d) But Manu in accordance with his method, abstracts it further and combines all the functional characteristics into one concept, the only difference being the addition of the cosmological idea of the eight quarters of the world. In the 7th chapter of his Saṁhitā, Manu says that all the Protecting Deities of the eight quarters are concentrated in the king as the protector of the world.

"Indra, Wind, the Sun, Fire, Brahmā, the Moon and Kuvera—from the essence concentrated of these eight protectors of the eight directions (quarters), the king is created by God".²

Here the identity of activity forms the basis of Manu's theory. No other law-giver has perhaps adopted Manu's conception just in this exact way. The old myth of the world being preserved by the gods from the eight directions has been used by Manu to symbolise the protecting capacity and character of the king.

"And since the king is formed out of the parts of these eight protecting Deities, he can subdue all beings due to the excess of might and power within himself."³

¹ Manu Saṁhitā, IX, 304-311. See S. B. E., XXV. p. 396.

² Ibid, VII, 4 : cf S. B. E. XXV. p. 216.

³ Ibid, XII, 5. Also cf. Political Authority, 1.

(e) Śukra following the same idea arrives at three separate conclusions. "The king" according to him "is made out of the permanent elements of eight gods".¹ But he qualifies the statement by applying it only to "the virtuous" king. Thus the king, "who is virtuous, is a part of the gods, he, who is otherwise, is a part of the demons".² The attributes of social and blood relationship are also concentrated in a good king—an idea borrowed evidently from the great Epic, the Mahābharata. Of course a bad king is "an enemy of religion and oppressor of his subjects."³ Each god bestows on the king his own special power. The table below illustrates the equivalences.

As a recurring part of the eight protecting gods the king has these function :—

- (1) As Indra (the chief of the gods), he protects wealth and possessions.
- (2) As the Wind (the diffuser of scent), he generates good and evil actions.
- (3) As the Sun (the dispeller of darkness), he establishes religion by destroying irreligion.
- (4) As Yama (the judge after death), he punishes offenders in this world.
- (5) As Fire (the all-purifying god), he purifies and enjoys gift.
- (7) As the Moon (the pleaser of all eyes), he satisfies everybody by his virtues.
- (8) As Kuvera (protecting the jewels of the universe), he preserves the treasures and possessions of the state.⁴

¹ Śukra Niti, I., 141.

² Ibid, I. 140.

³ Ibid, I. 139.

⁴ Ibid. Somadeva Suri mentions only three functions, viz. those of Brahmā, Viṣṇu and Mahādeva. Nītivākyaṃṛitaṃ, pp. 316 ff.

As possessed of the attributes of the five persons necessary for the very growth of life, the king has these functions :—

- (1) As father, he educates his subjects with good qualities.
- (2) As mother, he nourishes and pardons his subjects.
- (3) As preceptor, he teaches and advises his people.
- (4) As brother, he shares the subjects wealth in taxes.
- (5) As friend, he is the confidant of his people¹.

It is worth noticing in this connection that the Mahābhāra speaks of “the people as the family of the king—the king is the father of the state”² and therefore “a virtuous king is the lord of his people and a bad king is the destroyer of his subjects”³. These ideas occurring in both secular and canonical writers seem to have been prevalent for a long time, with influence on all spheres of life, social, political and religious.

Practical Aspects

More practical conceptions of kingship occur mainly in connection with the Social Contract Theory, which was again presumably connected with the Vedic system (custom) of Election. Even if they did not actually rise out of the compact or the custom, their natures are closely similar. Doubtless the idea of a social contract, as the origin of the state, is well suited to the practical treatment of the rise of kingship and its analysis in the Elective, the Wage, and the Trust Theories, according to which kingship enters politics as an essentially practical institution. The three types of theories were probably appealed to by revolutionaries of ancient India for

¹ Śukra Nīti I, 140 ff ; Śānti Parva, 139.

² Śānti Parva, 91.

³ Ibid, 91 — Also vide Doctrine of Resistance and Revolution and the Theory of Constitution—Nature of the State.

correcting, chastising and deposing kings, when circumstances made this unavoidably necessary.¹ Backed up by the old practice of the election of kings popular claims, though not popular rights explicitly recognised as such, may be easily imagined to have been advanced to justify all extra-ordinary political procedure. These would naturally fall under the subject of Popular Authority. Examples of such practices are available in ancient mythological and actual histories together with their theoretic explanations.²

(a) The *Elective System* appears, from the Rîg Veda and the Atharva Veda, imbedded in one of the earliest customs of Indo-Aryans, viz. of choosing their kings. They might have developed it in some very remote pre-historic past, but nothing can be said definitely as to its source. Maine traces it back to the "Patriarchal Election" of almost pre-historic time and the system generally might have risen from it. He says "the whole process I will describe as the transmutation of the patriarch into the chief"³. The Indo-Aryan Elective System is admitted and accepted by great authorities and scholars—Zimmer,⁴ Bloomfield,⁵ Geldner,⁶ Weber,⁷ Macdonell, Keith,⁸ and Majumdar.⁹ No definite political principles are observed which led to such elections in the political life of the time, yet zeal and competition were prominent factors indicating interest as well as concern on the part of the people. The earliest reference is in the Rîg Veda and it is as follows :—

"Like subjects choosing a king, they smitten with fear,
fled from Vṛitra".¹⁰

¹ Vide Infra, Doctrine of Resistance and Revolution.

² See Infra, Note on Election.

³ Early Hist of Inst., p. 117.

⁴ Altindisches Leben, p. 162.

⁵ Atharva Veda, p. 330.

⁶ Vedische Studien, 11. p. 303.

⁷ Indische Studien, XVII, p. 189.

⁸ Vedic Index, 11. p. 211.

⁹ Corp. Act. in Anc. India, p. 37.

¹⁰ Rîg Veda, X. 124. 8.

Read with another verse—"Like men in rivalry extolling princes",¹—the word "fear" above is easily understood to be that of the defeated party. Further details of such political competition have been given in the chapter on Popular Authority, where the power of election and deposition residing in the people is seen through this system. Free choice was evidently one of the prevailing privileges of the then social condition, and it was presumably quite general. It is observed in the sacrificial rites, when certain gods were invited and certain priests were engaged according to the demand of the occasion. For instance Agni (god of fire) is said to be "*elected*" by the Brāhmaṇas² and the priest is also spoken of as being "*elected*" for the religious purpose.³ The sense in both these cases is clearly invocation and appointment suiting the circumstances. Election is the political side of this right of choice in all human affairs. Its growth is interesting history. It laid its own conditions regarding the qualifications of candidates and the tenure of office.⁴ Thus "kings were elected even for life or for one generation or a few generations".⁵

(b) The *Wage Idea* is found not only in the Mahābhārata and Ancient Law, but also in the more modern political works of Kāmandaka and Śukra, the spirit of the thought remaining unchanged. The king is regarded as one, who does his duty for the pay received by him. His obligations, therefore, are to the people, i.e. the tax-payers, just as in ordinary business relations, and indeed a few words used in the texts in this connection do not at all point to the dignity of position and pomp associated with

¹ R̥ig Veda, I, 173, 10, p. 238.

² Atharva Veda I, p. 48.

³ R̥ig Veda, I, p. 634.

⁴ Mr. Lal's Article in Modern Review, Jan., 1920. *Infra*, Note 2 on Election in the Appendix. ⁵ *Ibid*.

kingship. A clear idea suggests itself on reading the texts that the king is paid and maintained by the people for (a) protecting the people, (b) administering the state, (c) and doing his duties towards his subjects. It seems that the wage idea became prevalent in conjunction with economic affairs and was in favour with the canonical legislators, mainly to safeguard the power of the people to some extent. Its relation to the social contract theory is consequently a matter of easy surmise.

The Mahābhārata says in reference to the social compact with Manu the first king—"We shall give you fines, forfeitures and taxes as wages, and they shall constitute your revenue".¹ Manu, the legislator, is most explicit in asserting in the usual legal fashion that "the king, who receives remuneration from the people agreed upon (as the sixth part) is bound to fulfil his obligations towards the people (for avoiding the same proportion of sin)".² Baudhāyana enjoins—"Let the king protect his subjects, receiving as his pay a sixth part of their income (or spiritual merit)".³ Kautilya confirms the Mahābhārata and the Canonical standard by repeating that "they made Manu their king to whom they gave one-sixth of the grain, one-tenth of the merchandise, saying this is the tax payable to him who protects us," and "As kings are remunerated by the people, it is their duty to look to the interests of the state."⁴ (Śukra states as the result of the general tendency of the ages that "the ruler getting his revenue as remuneration, his sovereignty is only for protection".⁵ The ideas are similar in principle and need no amplification. Śukra is so radical, that he does not hesitate to compare the king

¹ Śānti Prava, 61, 70.

² Manu Samhitā, VIII, 308 ; Also see Chap. XIII on Taxation.

³ Baudhāyana, I. 10. (See S. B. E., Vol. XIV, p. 199)

⁴ Artha Śāstra, pp. 22, 23.]

⁵ Śukra Nīti, I, 375.

to a thief, a dog, and an ox, as occasion demands, and in the Mahābhārata too, the quality of the king determines his appellation and type.¹ This hold on the ruler was certainly one rising out of the fact of the payment made to him for his services, that is a simple business relation resting on economic grounds.

(c) The *Trust Idea*, while it appears to be mainly economic in its bearing, has also great political significance. In the Māhabhārata the king is called "Vittarakshī", i. e. the keeper or the preserver of wealth.² Mr. M. Lal, in the Modern Review, January, 1920, explains the word by the phrase "National Trustee to whom the realm has been entrusted." Hence according to the Mahābhārata, if the object of trust is not carried out, "the trustee is to be shunned like a leaky ship."³ The principle of trust plays a very important part with reference to wealth and its use in Hindu economic ideas, all wealth being regarded as the object held in trust and therefore to be used for the highest ends.⁴ The common-wealth is only a larger and deeper idea rising out of wealth as a generic term. The spirit of this beautiful passage from the Śatapatha Brāhmaṇa was not without practical implications even for that early time.

"Thine is the state, thou art the ruler, the ruling lord—thou art firm and steadfast—to thee the state is given for agriculture, for well-being, for wealth, for prosperity, i. e. for the welfare of the people and the common weal."⁵

¹ Śukra Niti, pp. 19, 50, 86; Anuśāsana Parva, 61, 32; Śānti Parva, 96, 90. ² Śānti Parva, 57, 43; See Infra, Ch. III. ³ Ibid.

⁴ Manu Samhitā, XI, 21; See Infra Ch. XII on Property.

⁵ Śatapatha Brāhmaṇa, V, 2, 1, 25. Vide Infra Ch. IX for Royal Vows. The strain of this passage compares well with that of Milton's "*Tenure of Kings and Magistrates*"—"The power of kings and magistrates is nothing else but what is only derivative, transferred and committed to them in trust from the people...in whom the power remains fundamentally and cannot be taken away without a violation of their birth-right." (Prose Work of Milton, II, 11)

(d) The conceptions of wage and trust naturally combine and culminate in the direct and positive ethical *Idea of Service* to supply the dominant element in the constitution of the monarch. It is more spiritual in its attitude than the social compact theory, which serves for the basis of secular and even partly of canonical politics, and is in keeping with the religious nature of Hindu Law, the ideal of the greatest social trust. The service theory, when supplied to politics, assumes a character, which is more social and ethical, although it might also be turned and interpreted like the extreme side of the wage theory. It is only in the Śukra Nīti that the king is called the servant of the people and it may be due to Buddhistic influence, though nothing can be said for certain. Says Śukra :—

“The ruler has been made by Brahmā (God) a servant of the people ; the king should thus protect all like a servant.”¹

The Buddhist Āryadeva, a retired monk, called the king “*Ganadāsa*”, i. e. *the servant of the state*—“What superciliousness is thine, O King ! who art a servant of the body politic and who receivest the sixth part as thine wages !”² This being a fourth century record is earlier than the Śukra Nīti and points out a prevalent and important line of thought.³ It is however not prominent in the Artha Śāstra, and Manu, nor in the Mahābhārata itself, though the latter has the categorical statement that “the king is always subject to other people.”⁴

(e) The *Idea of Identity* of the king and the people is another conception worthy of notice and is quite peculiar as well as rare in Hindu political thought. It has been pressed to its utmost implication by Kauṭilya. In a remark-

¹ Śukra Nīti, I, 375 ; IV, 2, 295. ² Chatuḥśatika, p. 461.

³ Cited by Bhandarkar, Carmichael Lectures ; Saraswati. Hindu Rajaniti ; Fick, Social Organisation in Buddhist India.

⁴ Mokshadarma Parva, 321.

able passage he points out "that the king is the aggregate of the people."¹ In other words the relation between the king and the people is one of complete identity. It can be explained roughly on the ground of the delegation of power on a representative principle. Its germinal forms may be traced in other works, where the interchange of characteristics is illustrated, based, of course, on identity of interests. Thus the idea of the interchange of qualities and reciprocity of interests seems to be the back-ground of Kūṭilyan identity. The reciprocity between the king and the people may be shown in many ways that support and make for the concept of identity.

This reciprocity unifying the king and the people admits of different types of elaboration gradually shading off into identity. While Kāmandaka speaks of similar identity based on mutual support in his own original fashion, he distinguishes between the "inner" and "outer" states of the king. "The inner state is said to be his own body and the outer state is the territory over which he rules.....mutual support obtaining between these, they are considered to be identical with each other."² The Mahābhārata lays down that "as the king is, so are his subjects."³ In the Vishṇu Dharma Sūtra the other side becomes clear, just as in the Epic and some other works on politics—"The king is the sharer of the peoples' merits and sins."⁴ Śukra connects the good and evil of this world with the king himself,⁵ and both the Mahābhārata and the Śukra Niti advise "deserting a bad king."⁶ Mutual good is emphasised by Kāṭilya—"In the happiness of the people

¹ Artha Śāstra, p. 349—"Tatkuṭasthāniyohi śvāmīti" (S. Sastri's Text, p. 322) "Rājārājyaṁ prakṛiti-saṁkhepāḥ" (S. Sastri's Ed. p. 323.)

² Niti Śāra, p. 64.

³ Śānti Parva, 8, 32.

⁴ Vishṇu Dharma Sūtra, III, 14 (Vide S. B. E. VII, p. 16.) Śānti Parva, 88, (M. N. Datt's Trans. p. 132).

⁵ Śukra Niti, IV. 7. 894.

⁶ See Infra Chap. VI on Resistance and Revolution.

lies his happiness ; in their welfare his welfare."¹ Moreover "the king is the cause of the prosperity of the world, nor does the sovereign flourish in the world without subjects."² The Mahābhārata concludes that the "king and the state uphold each other."³

(f) The *Hereditary System*, or principle, being the exact opposite of Election and its purpose, deserves some notice before the conclusion of this chapter. It is impossible to point out how and in what period it rose actually and was accepted as the principle of the law of succession, and thus became operative in the political sphere. The application of this law postulated the quality of royalty of the whole dynasty, yet traces are found in the earliest literature of India to show that it was probably prevailing side by side with the elective system. Otherwise there is no explanation for references to both in the same works, in default of positive evidence for the cessation of the one and the beginning of the other. Maine thinks that heredity rose as election ceased to work. "The general rule is that the chief is elected with a strong preference for the eldest line."⁴ This is said by Maine in reference to all primitive society generally without any differentiation of special characteristics. In the R̥g Veda the simple statement is made of "increasing still with lineal successors,"⁵ while the Atharva Veda declares explicitly that "the son asks the dominion of the father, this they declare the noblest path to welfare."⁶ By the time of the Epics heredity became a fixed principle—"The goddess of the state (i. e. prosperity) follows the sons and grandsons down the following generations."⁷

¹ Artha Śāstra, p. 44.

² Śukra Niti, I, 127, 132.

³ Śānti Parva, 130. See M. N. Dutt's Trans. p. 191.

⁴ Early Hist. of Inst. p. 117.

⁵ R̥g Veda, II, p. 2.

⁶ Atharva Veda, I, p. 189.

⁷ Sabhā Parva, 73.

Manu enjoins in his own legal strain that the "kingdom should be made over to the son", when the reigning king wishes to retire to a private life for religious purposes according to the rules of the caste.¹ Of the secular politicians Kauṭilya and Śukra are to be marked specially on this point. Kauṭilya accepts the principle as it is, without any criticism of his own and it is quite in keeping with his politics in general.² Śukra, while he definitely leans towards the royal family and dynasty, e.g., in his advice on the selection of a ruler competent and suitable, in the case of deposing any king of despotic nature,³ adroitly points out that—"It is not birth that makes a king."⁴ He emphasises good qualities and real merit, and this may be due to his social radicalism.⁵

It is to be noted that succession to the throne depended upon the consent (i. e., indirect selection) of the people, although succession in itself remained within the royal family. This is illustrated in the stories of the Epics, the Rāmāyana and the Mahābhārata. For instance, Rāma's succession as crown-prince had to be ratified by the people. Similar examples are also to be found in the Mahābhārata.⁶ Rāma's case is famous owing to subsequent history.⁷

¹ Manu Saṁhitā, IX, 323.

² Artha Śāstra, p. 41.

³ Śukra Niti, p. 89.

⁴ Ibid, p. 24.

⁵ See Positive Back-Ground of Hindu Sociology, p. 88 ff.

⁶ See Appendix, Note 2 on Election.

⁷ Ibid.

CHAPTER III

POLITICAL AUTHORITY

1. Anti-Popular : Orthodox.

The problem of political authority, or that moral sanction, by which the State can, through its head or its agents, hold and exercise control over persons and property, pressed itself quite early on the attention of Hindu political thinkers. Its clear issues are seen in connection with the various theories of Kingship and of the State. It rose suddenly as a sharp and clear-out question, but natural enough under the circumstances of their normal polity, viz., monarchy. Nonetheless their prevalent democratic ideas, however rudimentary they might have been, included parts of the same uneasy question of authority though in a less prominent manner. It might be said that it was implicit dimly and vaguely in their thought, when no systematic political science was available in those by-gone days. It is highly significant that these persistent questionings came up and were recorded as such, showing as they do even now, that the ultimate basis of authority in its metaphysical or moral import, was not unsought nor neglected, but forced itself up to the surface by a natural and logical necessity. Its other phase is political obligation, which also engaged the attention of the early thinkers and was treated rather in a dogmatic fashion, following the problem of authority itself. In fact both are reciprocally connected and their natures also vary, according to the treatment they are subjected to, between the two poles of monarchical and democratic absolutism.

The Problem in the Brahmana Period.

The questions bearing on the subject-matter of this chapter are found in two different ages, far apart from each other in historical as well as cultural level, and these formed in short the very core of the problem as perceived in those times. One occurs in the Śatapatha Brāhmaṇa¹ of the post-Vedic period, and the problem is put in the usual language of the great rite of the Rājasūya, or the Royal Sacrifice, alluded to in the chapter on the Origin of the State.²

(a) "And as to why a Rājanya shoots (before ascending the throne),...while being one he rules over many?"³

This is undoubtedly a remarkable interrogation at this period of Hindu political development, in as much as no other special variation emerged as yet for political purposes, to yield alternative views of political problems. The answer, which is given and is under review below, inculcates a definite doctrine, that is, in the words of Dr. Ghosal, "the corner-stone of the theories of Kingship in later canonical works".⁴ And this was at a time when the ancient Hindus knew how to elect their kings and whom to select for the office according to suitable qualities. They surely felt the urge of an inarticulate social purpose, which was not then presumably formulated in technical language in the shape of a theory, but it was there and they had to explain it.

The Problems in the Epic Period.

The second memorable question, not dissimilar to the first and more or less anticipated by it, shows at least,

¹ C. 1000 B. C.

² Vide Ch. 1.

³ S. B. E., Vol. XLI. p. 25. Vide Weber's Ed., London, 1855.

⁴ Hist. of Hindu Pol. Theories, p. 33.

without proving fully and conclusively, that the explanation was not completely satisfactory and the doctrine itself did not succeed eventually to quiet down the natural enquiry into the meaning of political authority. The second interrogation thus arises after a lapse of centuries in the Epic age¹, when Yudhishtira asks Bhishma, the the royal sage in the Mahābhārata, almost the identical question.

(b) How did the title of king come into being and why does one man rule over many persons of great intelligence and valour, although he has the same physical organs and mental attributes, similar flesh, blood and bones, is subject to the same changes of birth and death and is equal in all respects to the others ?”²

It is in fact a reiteration only of the first enquiry expanded in greater detail with the advance of thought and experience : otherwise the difference is slight. Its democratic note is also significant, in its pointing out the intrinsic worth of human qualities rather than of any other circumstance. In the first case the enquiry comes up in connection with the Royal Sacrifice of Rājasūya, where emphasis on royalty is naturally expected in the explanation, while in the second it is the question of the noble king, noted for his righteousness and love for the people, put to the famous scion of the royal house, equally reputed to be one of the best and wisest men of that age. A deeper penetration can hence be observed in the latter, as also greater range and analytical insight. Indian political history by this time taught the ruling authorities the ups and downs in the life of great monarchies and states, and lessons of good and bad government under varying circumstances.

¹ C. 200 B. C.

² Śānti Prava. 59 ; See M. N. Dutt's Trans., p. 83.

A minor question occurring in the same context as the question (b) above, is worthy of notice here, though it is of the type of the Platonic myths and has no independent importance of its own. Long before the query attributed to Yudhishthira, the gods had raised the point before Vishṇu and put to him practically the same question. Hence both are identical in the sense that they are meant to meet the same problem. Yudhishthira has only repeated it in a more elaborate form. It is said that after the creation of the exhaustive science of polity by the creator (Brahmā), the gods turned to Vishṇu, their chief, and conjointly asked him very politely—

(c) "Now order, please, who is to be the greatest of men".¹

The reference is presumably to one, who would be strong enough to administer the science of politics, as it has already been remarked. Else there is little political significance in the passage itself. It is explained to be a mere variation of the doctrine of Original Authority and has also been touched under the theory of the State. It seems that two separate strata of thought are connected and combined into one whole. The passage (c) contains a much simpler idea than the passage (b) and is evidently earlier, so as to be utilised with the latter.

An interesting side-light is thrown on the problem by the analysis, ascribed by the story to Yudhishthira, of popular and state authorities. He saw that there was definite and equal power, if not more, in the hands of the people and he put the question thus—

(d) "The king and the people have equal power and qualities ; therefore, how can one person from among them possibly gain ascendancy ?"²

¹ Śānti Parva, 59.

² Ibid, 89.

It is probably a hint at the balance of power, between the royal and the popular parties, that keeps the State going and the king in his position, somewhat like a middleman in business. But it may not be safe to interpret it in this way, since it may equally point to the remnant of the old ideas of primitive tribal kingship.

The Solutions

The particular Solutions of these two problems of the post Vedic and Epic ages were given by the Sages as direct answers. The Śatapatha Brāhmaṇa has said that "the Rājanya (the ruling class) is *of* Prajāpati".....hence "he rules over many"¹. The question and the answer of course occur together. The interpretation of the word "of" creates some difficulty, as it may easily be taken either in the representative or in the partitive sense. Eggeling has translated the portion in the S.B.E. Series as "most manifestly of Prajāpati"², but Dr. Ghosal has put it as "the visible representative of Prajāpati."³ It is doubtful whether the representative idea was understood at all at that early stage, and Dr. Ghosal's translation may be just a little advanced. In any case the meaning is quite clear, viz., that authority ultimately issues out of Prajāpati, the lord of creation, and resides in the ruler, who is a part of the god and thus represents him in the world. He may be, therefore, directly divine in sharing the god's nature, or representatively divine in carrying out the god's function.

The Taittirīya Samihitā, which belongs to the Brāhmaṇic Literature of the age, has made a peculiar

¹ S. B. E. Vol. XLI, p. 25.

² Ibid.

³ Hist. of Hindu Pol. Theo., p. 33.

contribution towards the effort at solution. It represents a different kind of thought and has looked at the problem from a different angle. It does not concern itself so much with the explanation of sanctions, as with the means to attain to the position of authority, which lies in the rite or sacrifice performed by kings. It is the rite itself, as a mysterious power, which deifies the monarch by identifying him with one of the gods of the pantheon, that gives him the usually desired position and authority—"So him becoming (the god) Indra, his fellows recognise as superior ; he becomes the best of his fellows".¹ This is supposed to be the general result of sacrifice performed by any person. The Śatapatha Brāhmaṇa has quite a number of passages supporting specific identification of the king with any one or other of their several gods. The subject is naturally connected with the "Divine Right of Kings,"² which needs treatment at length.

The Mahābhārata seems to follow the trend of this doctrine, but substitutes a different story to account for authority vested in the ruler. It came both in substance and method very near the social contract theory, but did not merge in it. It saw the need for moral and social standards, but failed to find out the way to enforce them. The account in the Mahābhārata, therefore, prescribed "Daṇḍa-Nīti", the science of polity, as one of the factors in its answer. The operation of daṇḍa-nīti needed an agent. So "the great god (Brahmā) created by a fiat of his will a son out of his lustre", who afterwards "treated his authority as a trust (nyāsa)".³ The great Epic thus agrees with the Śatapatha Brāhmaṇa in tracing authority back to a divine

¹ 11. 2, 11. 6., H. O. S. Vol. XVIII, p. 160. See the Calcutta Ed.

² See Ch. VII.

³ Śānti Parva, 59. This has already been treated in Chapter 1 on the Theories of the State. Also see Ch. II, above.

source, but incidentally casts some light on its popular and moral nature in making it a trust for which the ruler is held responsible. Further, it is stated subsequently with reference to a later king Prithu, who consolidated his rule, which baffled his ancestor (the lustre-born son of the great god) in the early unsettled conditions, that the reason behind his unprecedented success was that :—

“The eternal god Vishṇu established Prithu saying none shall be able to transcend you. Men bow down before the king considering him godlike, because at that time the mighty soul (i. e. the god Vishṇu) entered into the king's person by means of super-natural power”.¹

This explanation is also dove-tailed with the main portion of the story, just as the question of the gods was introduced in the shape of a preliminary, for expounding the same aspect of the theory.

Another explanation of a quite different nature, perhaps from a different source belonging to a different system of thought, is furnished by the Mahābhārata in answering the very same question. Certainly the closing part of the following extract will show that though superficially disconnected it is intended to be a supplementary reply :—

“On account of their merits wearing away, the inhabitants of heaven descend to the earth in parts of the god Vishṇu, as kings versed in the science of punishment. For this reason kings are intelligent and possessed of glory. Men obey the commands of the kings, though of similar limbs, hands and feet, due to the (religious) merits of their former birth”.²

Here the theory of transmigration and *karma* has been the substratum of the whole idea. It is a dogmatic religious

¹ Śānti Parva. 59.

² Ibid. 59.

doctrine, that has been introduced into politics to justify and intensify royal authority, viz. that good work gives good position as the result. Nārada in his Dharmaśāstra categorically asserts the same principle—"subjects are purchased by the king's austerity", of course of a former birth.¹ The Brāhminical bias is naturally prominent in Nārada, as in the other canonical writers of the orthodox school. But even a practical and heterodox thinker like Śukra has been drawn into this type of thought, perhaps owing to the popularity and easy application of the doctrine of karma to account for all differences in the world. According to Śukra "Sovereignty (Svāmitvam—mastership) is the fruit of austerities",² and "the king acquires super-natural lustre (*tejas*—burning power) by means of his austerities."³ The word "tapas", in all cases translated as austerity, signifies that it is the cause of certain good results which follow its practice. Professor B. K. Sarkar has translated the two verses as.—"The king is the ruler, protector and benefactor of the people and he acquires his strength by penance. And he is the lord of this earth, because of his deeds in the previous births as well as of penances".⁴

The Machiavallian explanation of question (d) is not worth consideration from the stand-point of political philosophy. It is not deep, but only clever. It may be dismissed here simply by quoting Bhīṣma's "nectar-like" statement in reply—

"On son ! The king being of the same capacity as the subjects, he has to save himself and his superior position by means of (cunning) policy".⁵

It seems to be intended more for the upkeep of the position of kingship already attained. It does not really explain

¹ Quoted by Dr. Ghosal from Mitramiśra, Hist. of Hin. Pol. Theo., p. 22.

² Śukra Niti, I. 39.

³ Ibid, I. p. 40.

⁴ Sarkar's Śukra Niti. p. 5.

⁵ Śānti Parva, 89.

the authority that is behind kingship. Bhīṣma's comparisons and contrasts are remarkable. He juxtaposed in this connection "*a snake-eating python*" and "*a small snake*", though both are snakes after all, in order to show the relation between the people, (i. e. Hobbes' "*Leviathan*")¹, and the king. That the royal position needs the deepest and the most successful policy is fully illustrated by the expressions applied to the king by Kauṭilya and Śukra. The former has named him "the fountain of policy" and "the central pivot",² and he is the "root of the state" according to the latter.³ Kāmandaka, who closely followed the Arthaśāstra of Kauṭilya, shows the importance of "policy" on the part of the monarch for securing for himself the paramount position. It is the *sine qua non* of sovereignty in the estimate of the Secular School of Indian Political Science. He has in reality dilated on his master Kauṭilya in observing, though in a different context, that all this is "by his (the king's) superior policy and state-craft, which, by the proper manipulation of the various political forces, can easily render his own position invincible, supreme and paramount".⁴ In a general way the significance of the royal throne, whence the political forces radiated, was fore-shadowed in the early Vedic literature. The Atharva Veda felicitously spoke of the throne as "the highest point in the body-politic",⁵ which of course required the greatest care to be safe-guarded.

A further analysis of the concept, imbedded in the theories of the state, will elucidate the different ways and methods by which state authority was sought to be

¹ Cf. "The king is the aggregate of the people" in sec. on "the nature of kingship", Ch. II.

² Artha Śāstra, pp. 332, 519.

³ Śukra Niti. p. 262.

⁴ Niti Sāra, VIII. 83. Also cf. Kauṭilya, Arthaśāstra, VI. 1. 17. p. 322.

⁵ Atharva Veda, III, 1. 4. 2. Vide R. K. Mukherji's Fundamental Unity of India, p. 79.

explained and supported. In other words, all the speculations found in the last two chapters are answers to this one point raised, viz., state authority or royal power. All other conceptions to be considered in this connection are but variant modifications of the above views of authority and sanction. A survey of the whole field of Hindu political thought is needed in order to separate and classify the types of sanctions formulated along their basic ideas. The subject sub-divides itself into three sections in accordance with the nature of such authority, viz. (a) Original (i. e. direct), (b) Functional (i. e. official) and (c) Representative (i. e. deputed). Of these, the first two concepts with their branches rise out of the ascription of divine attributes to the king, and the third one is a class by itself issuing strictly from the popular social contract theory and therefore stands separately. The second concept stands between the two extremes, mediating two opposite ideas, with its two consequently characteristic tendencies to permanent and temporary nature of activity. The divine right of kings is the natural consequence of the first two ideas intensified to the utmost, while all revolutionary tendencies directly or indirectly owe their origin to the third. The ideal of authority in all cases has its limitations and boundaries, that can be properly defined under the relations obtaining between kings and subjects, including organisations of the people, such as guilds and corporations.¹

Sub-Divisions

(a) Original, or direct, authority has been seen to issue out of king's participation in the divine nature of any one of the gods. The instances quoted show that the king partakes of the divine nature of Prajāpati or Brahmā, the

¹ See Ch. XV, on Group Life.

god of creation, and therefore it is expected that he has obedience from the people, it being tacitly assumed that they obey the gods. The element of lustre is definitely to be the source of the king and he shines in reflected light. Another variation of this theory is the legend that Vishṇu, the god of preservation, entered into the first real king, Prithu, in order to establish him authoritatively, as different from one that is nominal, in the sense of being never closely connected with the people and the government, as the previous rulers were unfortunately. Here too the power comes from without. The special creation of the king by the will of the creator occurs in Manu¹ and apart from any legendary colouring signifies consequent authority and position. It has already been reviewed as one of the many theories of kingship.² All these doctrines are identical in their underlying principle, which tries to prove in every case that ultimate authority is of God, who is the fountain of all authority and power.

(b) Functional, or official, authority has clearly two sides—one leaning towards “direct” authority and is partly indistinguishable from it, and the other making it reside in the actions of the king or the duties performed by the king from time to time. When it is stated that “the king is made out of the particles or essences of the eight guardian-deities, it is in no way different from the original authority by participation.”³ Only it becomes more intelligible, in as much as the work of guardianship is common to both cases and is more to the point from the similarity of duties performed. But the other side, which is undoubtedly supplementary, lays down the assumption of special functions at special times according to specific needs. Hence all the eight functions spoken of as parallel

¹ VII. 4. ² See Supra, Ch. II, on the Theories of Kingship.

³ Śānti Parva, 59, 68 ; Manu, VII, 3 ; Śukra Niti, p. 12 ; Vide Supra Ch. II, Theories of Kingship.

to those of the guardian gods, are understood to be never in abeyance, when one of them is operating. These are roughly the duties of (1) protection (2) administration (3) advancement of religion (4) punishment (5) receiving gifts, taxes etc. (6) maintenance (7) pleasing the people (8) and the unkeep of the state. It is *prima facie* an effort at reaching the details of the authority of which the king is the vehicle for operation, after describing the combined contribution of the gods to the make of kingship, each giving his own special quality. Each one of the royal functions is thus backed up by authority traced to particular gods. It seems to be only a sort of make-shift explanation, which does not advance the argument beyond a few crudely analysed details. Otherwise when taken as a whole, it concides in every respect with the Vedic idea of authority and its source. That it was once much in vogue is corroborated by its presence alike in the three kinds of literature, Epic, Legal and Political, even of different periods.

(c) Canonical Representative authority, in its faintest yet dogmatic form, is seen only in Manu's Sacred Law.¹ It occurs in a stray passage in no way connected with the main drift of the chapter on kings and their duties. "The king" is said to be "the guarantor (*i. e.*, *representative*) of dharma" (righteousness) by implication, *i. e.* as standing for dharma. There is no certainty as to whether the word "dharma" means righteousness in the abstract, which would be like the Platonic idea of the Good comprising all Virtues, or the dreaded god of the same name, who dispenses rewards and punishments in after-life. However, the representative idea is quite clear in the sense, that authority is deputed for the purpose of having similar god-like justice done in the world, and the moral order

¹ VII, 17—*e. g.*—"pratibhu".

preserved from decay in one part, at least, of the universe. Perhaps this idea is faintly reflected in the Epic, where the king is called "dharma (righteousness) personified",¹ but it is also partially obscured in being used for Dharma, the god. Even Manu is not free from the extreme canonical and sacerdotal bias, which is natural in him as a law-giver, and hence his suggestive idea here fails to rise to the level of a political theory, which admitted great elaboration. It is not possible to ascertain, if Manu liked the social contract in the Buddhist account, or in the Māhābharata, except perhaps the mere tradition connected with the famous phrase "the logic of the fish",² so as to utilise the purely political application of it in his treatment of kingship. His idea of authority is also of the other two types, when it is thoroughly analysed, being derived from an ultimate moral and religious source, in spite of the prevailing representative idea, which indicates a fresh line of thought.

Political authority of the orthodox school all along assumed a back-ground, which was divine and which transferred its character to the agent, who was called upon to wield such authority. It is evident that many of the ideas were crudely figurative and failed to rise to a philosophic height, yet they all unmistakably point to a definite line of philosophic interpretation and this is ultimately theocratic. This divine or theocratic character of all authority and sanction, moral, social or political, was evident in ancient thought, else it could not command a binding force or compelling reverence.³

The Hindu political thinkers had to face exactly this task of making the people accept the authority of the state

¹ Śānti Parva, 90.

² Vide Supra, Ch. I, Theory of State, and Note 1 in the Appendix.

³ Cf. C. C. J. Webb. Gifford Lectures, Part II., Divine Personality and Human Life, p. 143.

by appealing to their religious sentiments, which would easily and naturally (and mostly by an intuition, so to speak) trace it back to the invisible ruler of the universe. Their moral instinct forced them to resolve political authority into a quasi-religious sanction, and perhaps this is on the whole true of humanity in the early times.¹

¹ Cf. Dean Inge, *Outspoken Essays*, II Series, pp. 64, 75.—“In the history of civilization theocracy has held and may still hold again a very important place. It is one of the forms in which the Invisible State has received practical acknowledgment in framing constitutions.....It is the crux of all political science how to place the force in the hands which will not misuse it.....But under theocracy there is not material power to fall back upon ; the authority is spiritual and unseen”.

CHAPTER IV

POLITICAL AUTHORITY

II. Popular : Representative

Vedic Age

That the foundation of political authority rests on the people and their voice was realised by the Aryan thinkers in an age, when religious thoughts mostly occupied the field. Perhaps they saw it from their social needs, which, impelled by the force of circumstances, gradually rose to a purely political plane. A democratic tone is noticeable at this time, but nothing which comes to the level of self-conscious direction, that characterises modern politics.

Vedic politics was roughly democratic in practice in all matters of the state without being backed up by any definite democratic theory.¹ In Zimmer's opinion it was "limited everywhere by the will of the people. This followed naturally in the Elective Monarchies as a matter of course".² The voice of the people was powerful and effective in those days, as much as could be expected in partially primitive conditions of society. They were yet remarkably conscious of the powers of the common mind and common purpose, and the intrinsic importance of the common assembly. Unity and agreement were the criteria of political efficiency, which gave effect to their corporate authority. Many utterances in the Rig Veda and in the later Atharva Veda are striking evidences of the relatively high political thinking of the simple people of the early

¹ Cf. Maine, *Ancient Law*, p. 17.

² *Altindisches Leben*. p. 172.—"Sodren überall durch den Willen des Volkes beschränkt".

Vedic time. Dr. Keith says :—"The power of the king could not have been in normal circumstances arbitrary or (even) probably very great. There stood beside him, as the mode of expression of the will of the people, the assembly which is denoted by the terms Samiti and Sabhā",¹ i. e. the popular assembly of the tribe and the assembly of the village according to Zimmer.² Although no trace of the Social Contract theory is found in Vedic Literature as a whole, yet a tacit consent of the people played an important part. This consent is illustrated in the the custom of the election of their kings through popular selection and agreement, and the good-will of the people in such cases is a factor indicating the seat of political authority.

Authority in General

In a general and inarticulate way the popular basis of the power of the state has been pointed out in the passages given below :—

- (a) "Indra and Agni, all the gods have maintained for thee security (*kshema*) in people".³
- (b) "Let women and their sons be friendly minded, Thou mighty one shall see abundant tribute",⁴
- (c) "Thou (the king and Indra) art Brāhmaṇa... mighty through the people" (i. e. he whose strength is in the people).⁵

What is implied here by the words "*kshema*" (security) and "*mighty*" is that the prosperity of the state formed by

¹ Cambridge History of India, p. 96. Also see Religion & Phil. of the Vedas & Upanishads by Keith, Vol. 11. p. 481.

² Altindisches Leben, p. 172.

³ Atharva Veda, III 3. (Whitney's Trans.) H. O. S. Vol 7. p. 88.

⁴ Ibid, IV, 3—Dr. Das says "it goes to show that the voice of women also counted and was an important factor in moulding public opinion. (Rig Vedic Culture, p. 315).

⁵ Śatapatha Brāhmaṇa, V. 4, 4, 11. S. B. E. 41. p. 10.

the duly elected king as well as its strength depends upon those who are responsible for inviting the king to take charge of the state and who willingly place themselves under his rule. They are in reality his security and his strength, whatever sense may be assigned to the words, whether that of financial assistance or that of military defence. "*Tribute*" is of course the general term for popular contribution qualified by popular pleasure.

It is also worthy of note that these three factors—security, tribute and might—are also the chief constitutions in the social contract of the Epic age, where they are treated of in detail. Indeed popular authority cannot be expressed better or more effectively under any circumstances than through the proper and legitimate control of finance and army. These are the common "Sinews of the State" in whatever community it is born, and such factors depend on the absolute condition of popular willingness and contribution, i. e. in short, consent.

The Śatapatha Brāhmaṇa has a general statement to the effect that "the Brāhmaṇa (the priestly class) and the Kshātra (the ruling class) are both based on the people".¹ This passage is true equally in the political and the social spheres, as also in the economic field. By the time this idea emerged in its completeness and the true nature of the social structure was properly understood, the faint and indistinct germinal conception of "the logic of the fish" is observed in post-Vedic thought,² indicating theoretical as well as possible absence of Law and Order, which later on preluded the fictitious social and governmental contracts of the Buddhist and the Epic age. For it is said in the same book that "whenever there is drought, then the stronger seizes the weaker, for the waters are the Law".³

¹ XI. 2. 7. 16., S. B. E. 41. p. 204. ² Note I in the Appendix.

³ S. B. E. Vol., XLIV. p. 16. Appendix, Note I.

Authority in Election

Popular authority, in articulated choice and consent, giving rise to and supplying foundation for representative authority, is explicit in the custom of the Election of Kings. The back-ground for such an institution is clearly the rudiments of common interest, in some shape or other, e.g. leadership for defence and war. The pattern is to be found in the Aitareya Brāhmaṇa, though stray references are abundant in the R̥g and the Atharva Vedas. In the last of the Vedas the benedictions on the king were like probable "resolutions" as the following :—

- (a) "Thee let the people choose unto kingship, and the five celestial regions elect thee".
- (b) "The goddesses of welfare, who assume various forms and are present in all places, all assembling have made they path clear. Let all in concord call thee hither, live they tenth decade a strong kind ruler".¹

But it is in the Aitareya Brāhmaṇa that the need for a king, a leader and guardian protecting and defending the people, is made explicit. It gives a picture of election in heaven of the National gods, Indra and Soma. Their religious bias made it necessary for even gods to have their kings, presupposing a communal life and social and political needs among the immortals. The extracts quoted below are like transferred pictures of their own experience and circumstances. The gods consulted with one another :—

- (a) With reference to Indra's election to kingship—
"This one is among the gods most vigorous, the

¹ Atharva Veda, III, 2 & 7. (Griffith's Trans.)

most strong, the most valiant, the most perfect, who carries out best any work to be done. Let us instal him to the kingship".¹

- (b) With reference to Soma's election to kingship—"It is because we have no king, that they (the demons) are defeating us; let us elect a king."²

Thus it is the common good of the community that materialises itself into the shape of Kingship, as a political institution, and transfers its own authority to the political head, who stands for the good of all. It is evident as well that "consent" is clearly pointed out in the text, in the closing remark—"After this (consultation) they consented to the Mahāvishekṣa, i. e. the royal consecration ceremony". Its importance lies in the fact that only elected and accepted candidates can be thus religiously treated (anointed) for and in the name of the whole people and the country.

The immemorial and unalterable custom of Vedic election may safely be said to be the early nucleus of popular authority, around which the later popular theories developed by way of further elaboration.³ It is sufficient to notice in passing that the governmental contract of the Buddhist literature and the social contract of the Epic—each distinctively peculiar to the two systems of thought—seem to have started from the self-determination involved in choice and in the controlling power resting in the people, in allowing or rejecting an agent to represent and act for them as a whole. Such a position logically leads to the understanding, which is legally called contract, together with other corollaries naturally issuing out of such an agreement.

¹ Aitareya Brāhmaṇa, VIII. 4. 12. (Haug's Trans.)

² Ibid, 1, I. 14. (Haug's Trans.)

³ This will be taken up in course of the review of other theories as they fall within this section.

Authority in Deposition

Again, the most effective expression of popular authority is revealed in the negative process of deposing and expelling bad, unpopular, or oppressive kings. It was their high prerogative, which expressed itself in opposition to tyranny and resistance to oppression. Thus it is found that a whole hymn in the Atharva Veda is given to the restoration of such a king ; restoration is as a matter of fact the operation of the same power as is used by the people in electing their rulers.

“King Varuṇa call thee hither from the waters !
 From hills and mountains Soma call thee hither !
 Let Indra call thee hither to these people,
 Fly hither to these people as a falcon.
 May the hawk bring the man, who must be summoned
 From far away, in alien land an exile.
 May both the Aśvins, make thy path-way easy.
 Come and unite yourselves with him, ye kinsmen.
 Let thy opponents call thee back,
 Thy friends have chosen thee again.
 Indra and Agni and all the gods,
 Have kept thy home amid the tribes.
 He who disputes our calling thee, be he a stranger
 or a king,
 Drive him, O Indra, far away, and do thou bring this
 man to us”.¹

The four sides of this popular power illustrated in several extracts above are (a) selection and (b) rejection after Election and (c) expulsion and (d) restoration after Deposition. The right to consent and to veto is technically the authority, in the hands of the people, which acts through their assembly. Even in a later age the Mahābhārata

¹ Atharva Veda, III., 3. (Griffith's Trans.)

tersely pointed out how religious merit accrues from the restoration of a deposed king,¹ But this does not seem to be quite in keeping with the Epic spirit of revolutionary freedom revealed in the same section.

A note on traditional and historical election and deposition is given in the Appendix.

Unity of Will and Group Process

Zimmer has observed that "the activity and co-operation of the people were carried on in meetings".² That the society of the time was roughly aware in practice and theory of what is known as the *group process* is shown by the popular political decisions just spoken of and in the abstract speculations dealt with later on. It is postulated by the combined actions of the people. The unity of wills, so necessary for group-life, was the great theme of the sages, who made important political pronouncements besides proclaiming spiritual truths. They asked the people to be of one mind for reaching great issues and to act like the gods with freedom from narrowness and prejudice. Free speech and unanimous opinions as well as unification of thought by contributing individual shares were well understood as social functions. The high development of institutional life is possible in "the common place" and "the common assembly" with the "general (religious) oblation" of the whole community. And the assembly is the external embodiment of the common mind produced through agreement and unity of purpose. A hymn on the subject gives all the elements required for real political life—

¹ Anuśāsana Parva, 68.

² Altindisches Leben, p. 172.—"Die Thatigkeit und Mitwirkung des Volkes wird in versamlungen ausgeubt".

object striven for in all gatherings, large or small, even through religious ceremonies.

"Like-heartedness, like-mindedness, non-hostility, do I make for you, do ye show affection, the one toward the other, as the inviolable cow toward her calf when born, That incantation in virtue of which the gods do not go apart, nor hate one another mutually, we perform in your house—concord for the men. Having superiors dutiful, be ye not divided, accomplishing together, moving on with joint labour, come hither speaking what is agreeable to one another: I make you united, like-minded. Your drinking be the same, in common your share of food, in the same harness do I join you together, like-minded I make you, of one bunch all of you, by my conciliation; be like the gods defending immortality, late and early be well-willing yours".¹

The waste that follows in mental and physical energy from dis-jointed actions is the side-issue of the problem of co-operation. It has necessarily to be guarded against in order to make a success of corporate life.

Corporate Authority—Samiti and Sabha

Another side of popular authority, namely its corporate character, is exposed to view by the analysis of the powers wielded by the Samiti, i. e. the Tribal (National) *Assembly*. This body is said to have been responsible for the election of rulers and had a constitutional character in monarchical tribes, as different from the non-monarchical or republican ones. It has been rightly distinguished from the *Sabha*, i. e. the *Gathering* for religious and social purposes, or

¹ Atharva Veda, III. 30. (Whitney's Trans.) H. C. S. VII. p. 138.

for village affairs.¹ The most general right of the Assembly was that the king was expected to attend its sittings as a matter of duty, most probably for conducting state affairs in consultation with the members (the elders). This is seen in this passage in the R̥ig Veda²—"Like a *true* king who goes to great assemblies"—where the character of the relation between the king and the people is revealed by a single touch in the use of the qualifying words "true" and "great". It was in fact a demand made on kingly office and agreement with the assembly was consequently and naturally sought for. That such agreement was considered a blessing is illustrated by the following lines:—

"One-minded true to thee be all the regions,

Faithful to thee and firm be this assembly."³

The king also from his own side naturally tried to capture the mind of the assembly and to influence it by all means, for it was above autocratic power. Naturally, it was unity that was desired. Here is a sample:—

"I seize upon your minds, your pious observances, your prowess in war".⁴

"I with my spirit make your spirits captive ; these with their thoughts follow my thought and wishes. I make your hearts submissive to *mine order* ; closely attending go where I precede you. I have invoked both Heaven and Earth.....so may we thrive."⁵

In a significant benediction on the king, which is also a hymn addressed to the newly elected king, the corporate

¹ Ludwig, Translation of the R̥ig Veda, 3, 253 ; Zimmer, Altindisches Leben, p. 172 : Supra, p. 55.

² IX. 92. 6. Griffith's Trans. ; (See Evol. of Ind. Polity by Dr. R. Shama Sastri, p. 76, for a different view based on Sāyana. There is no reason why an Assembly meeting should not be constitutional).

³ Atharva Veda. VI. 88, 3. Griffith's Trans. Whitney has done this as—"Be all the quarters like-minded, concordant, Let the gathering here suit thee, who art fixed". (H. O. S. VII, p. 34).

⁴ R̥ig Veda, X. 166. 4. ⁵ Atharva Veda, VI. 2. Griffith's Trans.

power of election and deposition, operating through the assembly, becomes perfectly clear. Professor Basu in criticising Zimmer on this point says—"Perhaps the choice of the king by the *comitatus* or by the *princeps* is what he intends to read in the *Vedic Polity*",¹ Like the Greek City States, it was not unlikely that the Vedic tribe from outside approved the succession in a body, while the priest spoke in the assembly for it and therefore for the people at large. The hymn repeats the welcome and the warning at one and the same time :—

"Be with us, I (we) have chosen thee, stand steady and immovable,

Let all people wish for thee, let not thy kingdom fall away.

Be even here ; fall not away ; be like a mountain unmoved.

Stand steady here like Indra's self and hold the kingship in thy grasp.

This man hath Indra established, made secure by strong oblation's power,

May some speak a benison, and Brahmanaspati, on him.

Firm is the sky and firm the earth, and steady also are the hills,

Steady is all this living world and steady is this king of men.

Steady may Varuṇa, the the king, and steady the god Brihaspati,

Steady may Indra, steady may Agni, keep thy steady reign.

On constant Soma let us think with constant sacrificial gift,

¹ Indo-Aryan Polity. p. 95.—(Now Principal).

And then may Indra make the clans bring tribute unto thee alone."¹

It is to be noted that the word "I" in the first line is spoken by the sacrificing and presiding priest on behalf of the whole assembly and is in fact equal to an editorial "We", the religious position of the priest having always the first precedence in India. This hymn also occurs in the Atharva Veda with slight variations.²

A Second hymn in the Atharva Veda corroborates the corporate right to elect the king, but the difference is that it is addressed to an already elected and then religiously consecrated king. Hence the tone is more exalted and high in glorifying the king in the most flattering and exaggerated language. It is also a blessing on the ruler newly accepted by the people and as such he is compared with the gods in their high positions in heaven and above all created things. It simply means to say, apart from metaphors, that he has been made so great by the people—at least it wishes him to be so.

"This is the lord of Indra, this is lord of heaven, the lord of earth. The lord of all existing things—the one and only lord be thou. The sea is regent of the floods, Agni is ruler of the land. The moon is regent of the stars—the one and only lord be thou. Thou art the king of Asuras (heroes) the crown and summit of mankind. Thou art the partner of the gods—the one and only lord be thou."³

No welcome nor warning is found in this hymn, but the royal position is extolled in which the accepted candidate is desired to prosper without any rival and consequent

¹ Rig Veda, X. 173. Griffith's Trans.—It is the priest who speaks for the people here at a general sacrifice.

² See Atharva Veda, VI. 89.

³ Atharva Veda, VI. 86. Griffith's Trans.

troubles. A popular wish of this type indicated corporate and responsible support.

Yet everything was not smooth and easy in the assembly for the king or for the members. Unity out of deliberation and discussion of public affairs meant party politics, rivalry and strife. Dr. R. C. Majumdar points out that "in the Samiti as well as in the Sabhā party spirit ran high..... such as has scarcely been witnessed in India during the three thousand years that have followed the Vedic period"...¹ He has quoted a number of passages following Bloomfield, two of which are given below—

"May my foe by no means win the dispute.....
smite the dispute of my counter-disputant.
Make them sapless, O, Herb." (Charm)
Do thou smite the dispute of him, O, Indra,
who vexes us."²

Everybody wished to excell in the meetings of the assembly for they were all keenly interested in their tribal matters. Magical herbs were used and prayers offered to the gods to be superior in debate and thus carry the house with one's self in the decision of the issues from the highest available ideal. Thus—

"What villages, what forest, what assemblies are
upon earth, what hosts, gatherings—in them may we
speak what is pleasant to thee, (O, Earth)."³

The subjects discussed in the Assembly were equally important and interesting and were just those on which party divisions were natural. Dr. Shama Sastri has given a long list of these on the authority of the Rig, the Krishna Yajus and the Atharva Vedas.⁴ It includes national questions, such as—(1) war, (2) peace, (3) distribution of war

¹ Corporate Life in Ancient India, p. 48.

² Atharva Veda, 11, 27. Bloomfield, p. 137.

³ Whitney's Atharva Veda, p. 671.; 'Cor. Life in Anc. India', p. 49.

⁴ Evol. of Ind. Polity, pp. 85. 86.

spoils, (4) currency or coins, (5) taxation, (6) protection of men and cattle, and (7) trade and tolls. Minor judicial topics are indicated as—(1) land disputes, (2) recovery of debts, (3) cheating at play, (4) inheritance, (5) abduction of women, (6) cattle stealing, (7) theft, (8) assault, (9) murder. In the sūtra period the following topics are found, for discussion, in the king's assembly—(1) destruction of fruit trees, (2) falsification of weights and measures (3) provision for soldiers' widows, (4) exemption of Brāhmanas and widows from taxation, (5) maintenance of the poor, eunuchs, and madmen, (6) punishment for false witnesses.¹

Majesty of the Assembly

The most remarkable and important contribution of the Vedic age is the conception of the *Majesty of the Assembly*. The political consciousness of this period put on a religious and metaphysical character, when the loving devotion to the assembly, as the citadel of free National Ideal, called forth ardent popular prayers and the two assemblies themselves were personified as positive powers in the life of the community. "Be gracious, lauded thus, to our assembly, to thee...be our homage, Goddess",² was the ordinary prayer of the people. A more detailed one occurs later in the same book—"O thou of the Assembly, protect my assembly and them, who are of the assembly, sitters in the assembly, having much invoked thee. O Indra, may they attain their whole life-time".³ In the White Yajur Veda homage is paid to the assembly, itself, probably as a mark of respect.—"Homage to the assemblies and to you, presidents of the assemblies",⁴ for the presidents were important personages. But a typical prayer, perhaps

¹ Ibid, p. 86. ² Atharva Veda, 1. 13. 4. ³ Ibid, XIX. 55.

⁴ White Yajur Veda, XVI. 24.

serving a special occasion and meant for the assemblies themselves, throws a flood of light on their nature and the mentality behind the utterance itself. The whole hymn is quoted below :—

“In concord may Prajāpati’s *two daughters*,
Assembly and Gathering, both protect me.
 May every man I meet respect and aid me.
 Fair be my words, O Fathers, at the meetings.
 We know *thy name*, O *Conference*,
 Thy name is *interchange of talk*.
 Let all the company, who join the conference,
 Agree with me.
 Of these men seated here I make
 The splendour and the lore mine own.
 Indra, make me conspicuous
 In all this gathered company.
 Whether your thoughts are turned away,
 Or bound and fastened here and there,
 We draw them hitherward again,
 Let your mind firmly rest on me”¹.

It seems that the assemblies had the power of protection and great care was taken for the ways of speaking in them. In such a case it is no wonder that the assemblies were deified as the “two daughters of Prajāpati”, the god of creation. A reverential attitude is also noticed in a penitential prayer. “We expiate by sacrifice each sinful act that we have committed in the village, in the wilderness and in the assembly” (Sabhā)². According to the commentator Mahīdhara, the sinful act in the assembly would be, first, “censuring the elders” and secondly, “taking sides”³. Dr. Majumdar explains them as “improer

¹ Atharva Veda, VII. 12. Griffith’s Trans. & Note

² Vājasaneyi Samhitā. III. 45, & XX. 17.

³ Quoted in Cor. Life in Anc. Ind. p. 56.

language used in course of debate" and "partiality in deciding disputes".¹ In a similar passage of the White Yajur Veda, Sūrya the sun-god is invoked for the taking away of such sins. "Each fault in the assembly.....that we have done.....even of that sin, thou (Sūrya) art the expiation".² The religious genius of a people essentially religious could not possibly avoid the temptation of stamping itself on matters of practical politics. The assembly thus naturally came to be regarded as inviolable, a right of prime importance in those days of rather unsettled life. The Vedic singer says it is the good grace of Agni (the Fire god) that does it—

"Agni, thou savest in the Synods when persued,
Even him, far-seeing one ! who walks in evil ways"³.

Griffith remarks "the Vidātha or sacrificial assembly seems to have been regarded as an inviolable asylum."⁴ The next stage naturally moves on to metaphysical ideas.

Suggestions of the Common Mind

The majesty of the congregated assembly, seen in the authority wielded by it, is further idealised and identified with the mysterious power, that is in every thing and is universal. This power is the very spirit operating in worded speech, in sacrificial rite, and in devotion of the heart. It is the unknown that gives validity and dignity to the assemblies, inspiration and vision to the speakers, usefulness to meetings and attractiveness to consultation, in short it is the one spiritual principle underlying all the phases of the social mind. In highly figurative language

¹ Corporate Life in Ancient India, p. 56.

² White Yajur Veda, XX. 17.

³ R̥ig Veda, 1, 31. Griffith's Trans. p. 41. and Note. Oldenberg's version gives no good meaning—"Thou, O Agni, leadest forward the man, who follows crooked ways, in thy company at the sacrifice" (S. B. E. XLVI. p. 22)

⁴ Ibid. Vide Indo-Aryan Polity, p. 95.

the Vedas have called it *Virāj*, literally meaning "splendour," as they felt the august presence of an inscrutable power beyond analysis and description. A few passages relevant to this concept are given here :—

"Virāj at first was all this (universe).....
 She mounted up, and entered the *assembly*,
 He who knows this becomes polite and courtly,
 And people come as guests to his assembly.
 She mounted up and passed within the *meeting*,
 He who knows this becomes fit for the meeting.
 And people come to his hall of meeting.
 She mounted up and entered *consultation*.
 Whoso knows this is fit to be consulted,
 And people come to his consultation.

Again—

Virāj is speech and earth and air's mid region,
 He is Prajāpati (god of creation) and Mṛityu
 (god of death).

* * * * *
 They call Virāj the father of devotion,
 He, whom, advancing, sacrifices follow.

* * * * *
 By whose control and hest the *spirit moveth*,
 He is Virāj in highest heaven, O sages,
 Breathless, moving by breath of living creatures.

* * * * *
 Who hath perceived Virāj's *duplications*,
 Her season, her rule and her practice ?
 Who knows her steps, how oft, how far extended,
 Who knows her home and number of dawns ?"¹

¹ Atharva Veda, VIII. 2 and 10.—

Virāt vā idamagra āsit

... ..

Sodkrāmat sâ sabhāyam nyakrāmat,

Yantyaśya sabhām sabhyo bhavati ya evam veda,

Griffith speaks of Virāj as a "mysterious divine being or abstraction, evolved by speculation, endowed with creative and other miraculous powers and the subject of many fanciful allegories".¹ Virāj is both male and female, as shown by Muir.² The Rig Veda traces its birth to Purusha (the world-being), and the commentator Sāyana includes it among the "thirty four" primary gods of the Vedic pantheon.³ Ragozin has emphasised its "mystical conception" on the basis of the Śatapatha Brāhmaṇa,⁴ while Dr. Das has identified both Purusha and Viraj completely.⁵ The interpretation of Mr. Arabindo Ghose is that it is "the universal spirit" manifest in "the conscious communal soul and body".⁶ It is equivalent to the Christian conception of "the word" and "the Holy Spirit", according to Griffith,⁷ in the context of the passages above, and seems to be the Aryan anticipation of the divine presence, which was revealed by Christ in his self, when He said "where two or three are gathered together in My name, there I am in the midst of them".⁸

A common purpose in the mind of men, as spiritual beings, invites the divine to be present as the connecting medium. This divine element converges all minds to a focus, one with the divine, and moves them towards a higher

Sodkrāmat sā samitau nyakrāmat,
Yantyasya samitiṃ sāmityo bhavati ya evaṃ veda,
Sodkrāmat sāmāntraṇe nyakrāmat,
Yantasyāmantraṇamāmantraniyo bhavati ya evaṃ veda.
(S. P. Pandit's Ed. II. pp. 669-670).

Vide Whitney's rendering, H. O. S. Vol. 8, pp. 509-511. Muir's Sans. Texts, V. p. 370.

¹ Trans. of the Atharva Veda, Vol. 1. p. 416.

² Sans. Texts. V. p. 370.

³ Vide Rig Veda, X, 55 & 90 and note; Max Muller's Ed., with Sāyana's Commentary.

⁴ Ragozin's Vedic India, p. 420. ⁵ Rig Vedic Culture, p. 477.

⁶ A Defence of Indian Culture. Arya, Nov. & Dec., 1920, p. 238.

⁷ Trans. of Atharva Veda. Vol. 1. p. 416. ⁸ Matt. 18; 20.

realisation. In philosophical language it is the common mind, which, being interpreted by the speakers, draws the hearers together, through reciprocal understanding of the common object, to be mutually evolved, stage by stage. The Aryans perceived it faintly and vaguely and found in the supernatural and superhuman "splendour" a really transcendental principle—something ineffably uniting the speakers and the hearers into a collective body and making corporate meetings and co-operative consultations possible, for the ultimate production of the common good. It is a phase of the same political consciousness, which prayed for the unity of the tribes and the freedom of the people and the long life of the elders and of the assembly itself.¹ Herein may be discerned a potent metaphysical truth.

Very easily indeed it can be seen that Virāj is at the beginning identified with the whole universe, pervading it as its inner principle, much like the world-soul of the Vedānta or of the Platonic and the Stoic philosophy. It is thus a universal principle, which only becomes specified in application for political purposes. Its entry into the assembly imports directly that it has some action there and this is but its social aspect; it is but one side of its universal operation. Its legitimate sphere, as far as its social side is concerned, is the minds in the assembly.² It creates for them the necessary atmosphere and the medium to play in. Knowledge of its presence or, in other words, of this principle, makes people polite etc., in short well disciplined, and gives authority to the rules; otherwise there can be no reason, nor need, for such parliamentary virtues. Where laws are operative, respect and good-will of people are essentially indispensable. All people make

¹ See Chap. IX on "Freedom & Idealism".

² Cf. Bradley's *Ethical Studies*, p. 184—"It is the objective mind which is subjective and self-conscious in the citizens; it feels and knows itself in the heart of each."

it a point willingly to be there as guests and contribute their quota. The whole business in this manner becomes co-operative in its nature. It is for Virāj that such things are possible. Virāj is the common medium for such interaction between minds. What is called "social process" in Social Psychology is idealised and deified here¹ and the inevitable transfiguration takes place of the psychical into the spiritual.

The meeting is evidently the more practical phase and consultation is the kernel of it. Here too Virāj plays an important part. The consciousness of this fact enables one to approach the meeting in the right spirit and its object is then properly appraised. Such a quality in those, who meet, is expected to render them helpful to one another. The seriousness of purpose is realised in proportion to the consciousness of the need. Any high concern or calling has from this point of view something divine in it, which men feel as super-human in its urge and authority—an intuition standing apart from ordinary intellectual processes. It is often perceived as an objective presence, though it is only an abstraction. A vast meeting for a very serious business inspires such awe and appears simply to be august and, as it were, separate from those, who attend it. It is no wonder that the spirit of the meeting is deified into a personal being, which is said to work out in the meeting itself.

Remembering the many variations of the one truth of the universal spirit, operating in men individually and collectively, the as-yet-unelaborated Hindu doctrine may be said to have had the necessary and legitimate philosophical recognition, though the nature of its utility was uncertain and unknown. All the political thinkers of the world, who left their mark on political science, had something of

¹ Cf. The New State, p. 33.

this metaphysical tendency of idealising the state. The Hindus did it in a strain, which is philosophically not at all different, with regard to the Vedic National Assembly representing the early state in India. To them it was something charged, or at least intimately connected, with the divine,—the descent of God into human affairs,—or to use the classical words of Hegel, “the footsteps of God in the world.”¹ The state is directly or indirectly raised to its ideal position and is shown to be “rooted in man’s spiritual nature”.² Mr. Rao has given a suggestive parallel in describing the make of the body politic in keeping with the spirit of orthodox Hindu thought.³

Hillebrandt finds a sanctified aspect given to the assembly, as an institution, by religious ceremonies and prayers and sacrifices offered on its behalf.⁴ It is true, as has been observed previously, from the religious standpoint, but there is yet something more, which is metaphysical in character and which in all probability powerfully influenced later canonical thought on political authority. A suggestion is worth making here in imitation of T. H. Green in his criticism of Rousseau’s “general will”. It may be said that the Vedic seers saw through their assembly in their conception of Virāj—

“.....There’s on earth a yet auguster thing,
Veiled though it be, than parliament and king”.⁵

¹ Phil. of Right, Sec. 258. Dyde’s Trans.

² Social Purpose, p. 93.

³ Devel. of Democracy in India, p. 125. “The nation state has, like the individual, three bodies—for the *Sthula Saria* the physical body, the geographical unity ; for the *Sukshma Saria*, the astral body, a common life and interests ; for the *Karma Saria*, the mental body, a conscious sentiment of unity and a centre of governing organ, through which the common ego can realise itself and act.

⁴ Vedic Mythology, 2, 123-125.

⁵ Green’s Political Obligation, p, 82.

And this conception is in agreement with their general philosophic outlook that it is to "this august thing," and not to such powers as the assembly and the king, that ultimate authority really belongs.¹ Hence they looked upon Virāj, as Platos's Reason (Nous), as the source of law and discipline, and religiously prayed to the same Virāj—

"Of her the gods and men said.....

That we may both have life let us invoke her.

... ..

Thus did they cry to her (Virāj),

Come Strength ! come Food ! come Charmer !

come Free giver !"²

Another Phase

Another phase of the highly mystical experience, of realising in the meeting something more than what is purely individual, personal and superficial, is seen in the figurative representation of the "unborn-spirit" working in and through the occasion, but also identified with the occasion itself. This is the same unborn-spirit, which is symbolised in the sacrificial victim, in which the sacrament is embodied, as the unity of the spiritual and the material. It is the indescribable presence without which the meeting loses its zest and fervour and its season and occasion are not possible. "Working Season," and "Conquering Season" are the appellations given to the eternal un-spirit in its various operations :—

"The man, who knows the season called the Meeting, takes to himself the gathering fame, his hated rival's gathering fame—

The unborn-spirit is this Meeting Season !

¹ Adapted from Green's Political Obligation, p. 82.

² Atharva Veda VIII, 10. Griffith's Trans.

The man, who knows the season called the Working, takes to himself the active fame, his hated rival's active fame—

The unborn-spirit is this Working Season !"¹

It seems that the unborn spirit is the inspiration of the whole meeting and the elan or urge of active work. Anyone, who perceives this and is at one with it, rises to fame and recognition and success. The objective spirit at play in the meeting and in active work waits for the man, who watches for it, in order that it may act through its proper instrument. It is always there and can be elicited under favourable circumstances.²

In other words the eternal spirit is born again and again in meeting, in work, in conquest, in noble attempt. All these incarnate the spiritual reality, that is manifest in them and realises itself, wherever darkness is dispelled, wrong is righted and freedom is wrought. The Vedic ideas in such passages, though usually metaphysical and mixed up with religion, admit of philosophical treatment to a great extent. The Atharva Veda further speaks of the unborn-spirit as :—

"This unborn cleft apart in the beginning, his breast became the earth, his back was heaven. His middle was air, his sides the regions, the hollows of his belly formed the oceans. His eyes were truth and right, the whole together was Truth, Virāj his head, and Faith his breathing."³

This eternal spirit is named sacerdotally "The Goat," (the sacrificial victim), "Pañchaudana," emblematic of eternal sacrifice going on in creation.

¹ Atharva Veda, IX. 5. 33. 34. Griffiths Trans.

² Griffith's translation has been amended according to the St. Petersburg Dictionary for the purpose of interpretation.

³ Atharva Veda, IX, 5, 19, 20. Griffith's Trans.

"The free man's worship"—if it is not out of place to add here—is seen in their almost Platonic approach towards the Absolute in every department of practice and speculation, whether political or philosophical, which blend together in the long run. A specimen hymn closes this section showing the burden of their thoughts :

"Power art thou, give me power. All hail !

Might thou art, give me might. All hail !

Strength art thou, give me strength. All hail !

Life art thou, give me life. All hail !

Ear art thou, give me hearing. All hail !

Eye art thou, give me vision. All hail !

Shield art thou, shield me well. All hail !¹

Dr. Dass has rightly observed that "the sage-priests, the mighty thinkers of old, the brainiest among the people, who led the van of progress in the early and subsequent ages of Aryan development.....discovered the intimate relations of the cosmic powers with human welfare.....and fused the disjointed and discordant elements into one homogeneous whole."²

The Buddhist Age

Buddhism, being in general a systematic revolt against Brāhmanical orthodoxy, has also contributed its remarkably original quota to the political thought of India, though it does not show purely in principle anything greatly different from what has already been discussed and delineated. In fact the principles themselves have been supported and reinforced by the fabrication of imaginary history of society and mankind, making for greater and deeper individual liberty and much better organisation. Its theories, in many respects parallel to those of the great Epic, ought to find their place in Indian Political Philo-

¹ Atharva Veda. II. 18. Griffith's Trans.

² Rig Vedic Culture, pp. 304, 305.

sophy as a whole, if not as their source directly, but certainly as springs of new political thought. The sayings of the great Buddha, or the Enlightened, touched the problems of metaphysics and religion, as well as those of politics and ethics. He set thought absolutely free and hence fresh conceptions were possible and the very spirit of enquiry underwent a radical change. The origin of kingship and of political organisation and the conditions of republican welfare and prosperity engaged his attention according to the *Dīgha Nikāya* and the *Aṅguttara Nikāya*, works composed long after the great teacher's death. Both of the accounts reveal a solid moral and human tone worthy of the revered name with which they are so closely associated. The position brought about by Buddha's teachings and the consequent freedom of the spirit may be summed up in the language of Professor Radhakrishnan.¹

"Buddhism helped to democratise the philosophy of the Upanishads.....to make it available for the daily needs of mankind. In the collapse of creeds and the disintegration of systems it was the task of Buddha to provide a firm foundation for morality. As in the Greek world the larger and more comprehensive metaphysical systems of Plato and Aristotle were followed by the Ethical speculations of the Stoics and the Epicureans, so it happened in ancient India. When the foundation of philosophy become shaken, the principle of conduct attracted the attention of the thinkers...Ancient Buddhism resembles Positivism in its attempt to shift the centre from the worship of God to the service of man. Buddha was not so keen about founding a new scheme of the universe, as about teaching a new sense of duty.....The moral law is the necessary expression of the truth of things."²

¹ Now Sir S. Radhakrishnan.

² *Indian Philosophy*, pp. 357, 471.

Social Compact

In the first work, the *Dīgha Nikāya*, a history of creation is attributed to Buddha, and the general classical assumption of a hypothetical Golden Age is usual, and perfection is taken for granted in every thing. Degeneration ensued later on ;.....the cause is not explained except the mention of the putting on of physical bodies by beings incorporealand the original state of nature, which is stated to have been "a state of purity" was lost for ever. In Rockhill's Buddha these are attributed to the eating of rice, which grew naturally as common food for all. Those who ate little had clear complexion and became proud of it. Sex distinction became prominent, because of eating this stuff, and the result was lust. The conception of wrong gradually came to be formed. Theft and mis-appropriation appeared, but the thief and the thief-catcher were both reprimanded. Thus came in all the differences of colour and sex, the institution of property,, family and the classes.¹

A series of compacts is imagined to account for all these and to counter-act the degenerating tendencies at work. But when it was found "that theft has appeared in society, the people agreed to choose a king". The Epic contract, as found in the *Śānti Parva*, has no such definite and graduated stages.² Positive representative authority was made over to the king including (a) punishing (b) reproaching (c) banishing. Perhaps these show the grades of punishment according to the gravity of offences.³ Similarly he was given the power of (a) cherishing (b) favouring (c) being gracious. These mean probably the different ways of rewarding deserving cases.⁴

¹ Cf. Rockhill's Buddha, p. 4 ff.

² See Supra Ch. I. on Origin of the State.

³ *Dīgha Nikāya*, Vol. III., Sec. 27., *Aggañña-Suttanta*.

⁴ Senart's *Mahāvastu*, Vol. I. pp. 347-8.

The king is more a national judge, than a ruler in the Buddhist account, indicating that the state was not yet so complex an organisation as that of the Epic. No divine element is at all noticeable anywhere in the Buddhist tradition ; on the contrary Buddha's humanistic tone and positivist outlook are paramount in all his utterances. Dr. B. Prosad has observed—"Here divine interposition is conspicuous by its absence ; reason and expediency alone determine the formation of the state ; government derives its validity from consent ; it exists to fulfill certain definite needs. It is difficult to ascertain whether the idea of the pact originated with the Buddhists or they borrowed it from previous Brāhmaṇic thinkers and merely stripped it of its super-natural parts."¹

The Dīgha Nikāya and the Mahāvastu both agree in paying the king for his services—"a share of paddy" according to the former, and "one sixth of the produce", according to the latter.² It is desirable to note in this connection the fact, that "administering justice" becomes a definite factor in the Buddhist Contract, and the tax becomes the remuneration for such work. The Epic Contract lacks this emphasis on the ethical principle, but it has more political flavour in taking into consideration the various ramifications of state matters. The Buddhist account has stressed the "serving office" of the king as ruler—a conception of mighty political potency. Dr. Ghosal thinks that "In this insistence upon contract as the foundation of the political order and above all on the terms of the contract itself, the Buddhist cononist had evidently discovered a weapon, which might be used to justify almost any degree of popular control over the king and in

¹ Theo. of Govt. in Anc. Ind., p. 208.

² See Supra, Chaps. I and II on Theories of State and of Kingship.

particular to counter-act the contemporary doctrines of respect and obedience of the people."¹ From this standpoint the Buddhist contribution is worthy of the republican period in which it was born. It served for the most clearly pronounced and well-grounded dictum of popular authority.

Position of the King

The most significant and important advance is seen in the writing of the Buddhist Monk Āryadeva in his *Chatuḥśatika*, although it is not essentially a book on politics. He has called the ruler for the first time "a servant of the body politic" with the sixth part as his pay.² Following him, Śukra, the last outstanding Hindu political thinker, has also termed the king in exactly the same way to have been "created a servant of the people by Brahmā" (the god of creation) receiving from the people his dues.³ It seems he had tried to connect the reduced position of the king with the creative will of the god of creation, in order to give it as far as possible a religious sanctity and consequent dignity. He thus indirectly leans towards Manu, the orthodox legislator, who held the idea of the special creation of the king out of divine will. It is a beautiful combination of orthodoxy and heterodoxy, or canonical and secular ideas, effected by real political vision and wisdom.⁴ But the most unexpected fact in this respect is that even Kautīlya, the supporter and in a sense the maker of ancient Indian Imperialism, has probably unwittingly and unwillingly admitted popular authority in the relation of the people with the king, as that of master and servant. In section 365 of the *Arthaśāstra*,⁵ Kautīlya's "virtuous king" speaks to his army—"I am a paid servant like yourselves, this country is enjoyed by me together with you". Further

¹ Hist. of Hindu Pol. Theories, p. 181.

² *Chatuḥśatika*, p. 461,—*Ganadāsasya te garvvah śaḍbhāgena kah*".

³ Śukra Nīti, 1. 188. ⁴ See *Supra* Ch. II, Theory of Kingship. ⁵ P. 442.

admission by him is in styling a minor king as "a flag", i. e. a mere emblem, while in fact "the people are the lords."¹

Besides theoretical ideas, the words of throned monarchs afford similar evidence. A note-worthy confession by a king of the Buddhist time is recorded in *Talapatta-Jātaka* cited by Professor Bhandarkar.² It is the king of Taxila, then a flourishing place and the seat of the famous ancient university, who had frankly to tell the object of his love—"I have no power over the subjects of my kingdom, I am not their lord and master, I have jurisdiction only over those who revolt and do wrong." All these passages show how far popular authority was pushed forward in and after the time of the rise of Buddhism. Similarly in the *Samvara Jātaka*, quoted by Dr. Ray Choudhury, the king had to ask his courtiers to fix the succession according to their will—"Friends, all my sons have a right to the white umbrella. But you may give it to him, that pleases your mind."³

Again it is clear that the influence of Buddhism was undoubtedly very great on the purely secular writers and theories from the pre-Epic age to the post-Epic age, i. e. on political literature in general, as is illustrated by the attitudes of Kauṭilya and Śūkra to this topic. The doctrine of the paid royal office, or engagement on wage-giving principle, is indirectly as old as the ancient custom of election, while it comes directly through the sacred law of Baudhāyana, via the social contract.⁴ The Buddhistic originality consisted in defining kingship as service to the people from a mixture of political and social ideals. Drs. Banerjee and Bhandarkar both agree as to the limited power of the office of the king from the above conceptions of service and salary.⁵

¹ *Arthasāstra*, p. 331.

² Carmichael Lectures, I. p. 135.

³ *Pol. Hist. of Anc. Ind.*, p. 85.

⁴ *Supra* Chaps. I & II, Theories of Kingship and Vedic Election.

⁵ *Pub. Admin. in Anc. Ind.*, p. 72 ; *Carm. Lectures*, I. p. 122.

Republicanism

Republicanism is the most remarkable and outstanding characteristic of this period, and Buddha himself, being a born republican, was its greatest mouth-piece, whom Gettell has styled "a staunch supporter of democracy and propagandist against monarchy."¹ Separately it is a theory by itself. Nothing more than a bare outline is necessary here for the purpose of connecting it up with the subject of popular authority. Professor Sarkar says, "The entire philosophy of democratic republicanism found an able exponent in Śākya the Buddha, who, though he renounced the family ties, remained an active propagandist all his life. And the propaganda embraced lectures, as much on constitutional law, trial by jury, res judicator, government by the majority, the importance of public meetings and all other branches of civic life, as on the path-way to salvation and the elimination of misery from the world of men....It was the Śākya's anti-monarchism and republican fervour that kept up the spirit of resistance among the senators sufficiently high to enable them to accept the royal challenge of Ajātaśatru. For they are heartened by the Śākya's judgment that the Vijjins could not be overcome as long as their federation was unbroken".² Exactly in this connection Buddha laid down the famous conditions of the existence and prosperity of the republics,³ which as tested and tried principles rank very high among democratic doctrines.

The great principles of the Buddhist Ethics revealed the gospel of the all round emancipation of the spirit. It was the Sakya's doctrine of "Sarva-Sattva-maitri"⁴ that revolu-

¹ Hist. of Pol. Thought, p. 27.

² Pol. Theo. & Ins. of Hindus, p. 149.

³ See Ch. XVI on Republics.

⁴ Saddharma Puṇḍarīka, S. B. E. XXI. p. 222. Pol. Theo. & Ins. of Hindus, p. 150.

sionised the country in favour of universal brotherhood, no less than the message of "appamada" (strenuousness) and "vīrya" (free energy)¹. His uncompromising ethical idealism infused a new spirit into the meaning of social and religious democracy of the time and established it on the safest foundation of moral regeneration and it is a truth which is equally applicable to the world of to-day. Necessarily the whole of his social philosophy is signalised by a co-operative and practical import touching human nature at its very core and subsequently spreading over the entire area of human interest and enterprise. By his friendship to all beings a universal equality was proclaimed for all and in free energy was chalked out the path to the universal good, while through strenuous vigilance was ultimately opened a vista of the eternal life, that is the highest completion and the very last of human objectives. Dr. Haradaya! has pointed out on the basis of important texts that "Vīrya is the pursuit of the good, the urge for all altruistic activities"² and "Appamada is the careful conscientiousness, which is the root of immortality (absolute perfection)."³

Indeed the social good and the spiritual good are not far apart—they are both of a piece, for the Buddha truly assured in the Dhammapada that "the strenuous never die" anywhere.⁴ And "the Buddhist Dhamma-Chakka, the ideal par excellence of society and state based on pure righteousness,—could not but be founded on principles of justice, equality and brotherhood, for Buddha's religion itself was in the main agnostic, rationalistic and realistic,

¹ Pol. Theo. & Ins. of Hindus, .p. 150—Cf. "I (Buddha) speak highly of vijja, vimutti and phala" (Samyutta Nikāya, V. 73-75).

² Śikshāsāmucchaya, 10. quoted in Dr. Haradaya!s "Bodhisattva Doctrine in Sans. Buddh. Lit. p. 357.

³ Bodhicharyāvatāra. VII. 2. p. 216 of Dr. Haradaya!s book cited above.

⁴ Dhammapada p. 33 ; See Buddhist Ideals, Saunders, p. 31.

but essentially ethical.”¹ Evidently this majestic circle of righteousness included all virtues that moralise the individual and the world. It is no wonder, therefore, that Anatole France has spoken of Buddhism as “a philosophy which is in agreement with the most daring speculations of the modern spirit.”² The full implications of Buddha’s political pronouncements and methods fall under the general principles of republicanism in the chapter allotted to it.

The Epic Age

The Vedic Age gave place to forces, which produced quite a different political atmosphere, and hence political theories were generally cut off from old moorings, though several strata of the old thoughts permanently remained underneath the surface to be directly open to view here and there. The Epic Age made use of all the tendencies left behind by Vedic and Buddhist speculations. It was the period of reconstruction in many ways characterised by Professor Radhakrishnan in the following extract :—

“The marvellous uncertainty and ambiguity of existence, the discordant attempts to systematise the world, the bewildering chaos of arbitrary by-ways, side streets and resting-places of thought invented by suffering humanity trembling in fear yet delighting in the new and the untried, the desert of unbelief, exhaustion and frigidity in the midst of energy, youth and enterprise make the *Epic period, an eventful era in the history of Indian thought*..... So in this age of experiments many new systems were put forward, opinion was set against opinion, ideal against ideal. Change in the habits of thought is created not by one single influence

¹ See Studies in Hindu Pol. Thought. pp. 52-53.

² Modern Review, April, 1927. p. 503.

but by a combination of several..... The sense of failure—the failure of state and society—the loss of hope in this world, the diffidence of humanity threw the individual back on his soul and emotions..... In the tumult of thought consequent on the *disintegration of faith and declaration of the independence of man*, ever so many fancies and speculations were put forward.”¹

It was in fact the time of tremendous transitions ; and in social and political matters, the shock of change brought down the old and orthodox views replacing them with new ones, mainly original, mostly radical. Perhaps long-standing traditions, such as those of the *Sūtra* and *Śāstra* periods, (i. e. of sacred laws and sacred institutes), helped as well as retarded the nascent growth of free thought on the state and governmental affairs. The sacerdotal and religious aspects, that got attached to theories and systems, were too strong to be altogether lost ; hence they were partially, and successfully to that extent, transmuted and applied to altogether new purposes under new contexts. The germs independent thought, in the Vedic and the post-Vedic periods, undoubtedly supplied great impetus to the advance of fresh speculation. The advent of the two great Epics, with stupendous masses of social and political matter imbedded in them, together with the effects of Jainism and Buddhism in revolutionising the creeks and corners of the country, brought to a close the broad, fruitful and virile school of thought associated with the Vedas and their subsidiary literature.

New Ideas—Sophistry

Since it is true “that politics advances wherever general philosophy is highly developed”,² there is ample justification

¹ Indian philosophy, Vol. I. pp. 272-3.

² Prof. J. H. Muirhead's Lecture, 1920.

for the new-fangled ideas of this time on government and society. The social contract may be said to be the special contribution of this age, illustrative of its characteristic independence and originality, equally in the domain of politics as in that of metaphysics. No trace of the contract idea, it has already been remarked, ever prevailed in connection with the ancient custom of election, which stood like a land-mark in the constitutional history of the country, and was the greatest and the most precious heritage of the past and in fact obviously the keystone of later popular right and authority. In one sense the theory of social and governmental pact may be said to be only an expansion and elaboration of the germinal idea contained in election and self-determining choice, which were in turn assimilated and incorporated by it in course of its growth.

But the contract theory assumes many more fictitious conceptions about mankind and society. The historical back-ground of election was actual and real "order" (ṛita, i. e. system), which, according to the R̥ig Veda, "lives amongst men"¹ and is but the manifestation of an undying instinct, admitted even by the imperialist Kautilya.² The social compact takes for granted just the opposite—the sure possibility of social disorder, which necessitates the organisation of political government; that is to say government is meant for the suppression of uneliminable wickedness.³ So the Mahābhārata says "Gods have pointed out the need of a king for putting a stop to wickedness".⁴ A ruthless egoistic ethics flourishing contemporaneously supplied the

¹ R̥ig Veda, IV. 40.

² Dr. Jayaswal's interpretation in *Calcutta Weekly Notes*, Vol. XV. p. 275.

³ Cf. Tom Paine, *Common Sense*, I, Conway's Ed; *Social & Political Ideals of the Revol. Era*, p. 112.

⁴ Śānti Parva, 67.

intellectual support to such cramping social and political ideas. It is Hobbes repeated on Indian soil. Says the narrow, shallow and temporising moralist—

“In this world everybody is eager for self-protection. Friendship and enmity are consequent on might and in reality none is friend nor enemy. There is no permanent friendship or enmity, self-interest being their only cause. What indescribable power is in self-interest! The whole world is controlled by self-interest. Nobody is really loved by anybody. Even the affection of brother and sister and wife is not causeless. Where there is no interested connection there can be no love at all. Practically people show love when some ulterior motive is realised through somebody. Therefore love depends on a cause, the former disappears when the latter is absent. Time only reveals the cause, which can never exist without self-interest. He, who can realise his self-interest, is wise and others follow him. Our necessity brings in our exhibition of amity, which vanishes with the fulfilment of the want. We show favour as long as we carry out interest. Mutual favouring is due only to the gain of advantage.

How can there be peace against the mutual relation of the eater and the eaten, the powerful and the weak? The relation between the weak and the strong is never praise-worthy, as the powerful should always be feared. People forego for self-protection children, relatives, kingdom and wealth. The sastras point out that the self has to be saved even by letting go one's wife and wealth. Self-protection is the duty to be done carefully without trusting anybody in the world. Better be trusted by others but never trust others yourself. Distrust is the core of the conclusion arrived at by the makers of moral science.”

"The clever only are able to deceive others by sharpness. Sharp intelligence arises from fear and consequent carefulness. Enmity is never pacified. Only time makes enmity and friendship. Enmity originates through wife, property, offence, harshness and caste, according to the sages. Like the joint of earthen vessels peace breaks down after enmity. Hence moralists declare suspicion to be the root of future prosperity."¹

Such a selfish morality, if it deserves the name of morality at all, could not but produce a quite independent and original theory of society in its own way and suiting its own purpose ; but it must also be to the credit of the age that it never succeeded in undermining the conception of order and system implied in the most complex idea of dharma (righteousness) of the orthodox school. This stream of thought kept the social instinct alive in its proper position, in spite of the materialistic revolt against the extreme of orthodoxy, and though often abused by religiosity and sacerdotalism, its influence for good was of the highest value.² The general results of the Epic sophistry may be summed up in brief in a few lines from the Mahābhārata :—

"There is no standard in the world—what gives pleasure to the wicked shocks good men.³ The same work may be good or bad at times,⁴ nothing is higher than pleasure, it being desired by all.⁵ All beings have from birth the right to enjoyment according to desires.⁶ All are mad after self-interest.⁷ It is impossible to find out real righteousness."⁸

¹ Āpaddharma Parva, 138, 140. See M. N. Dutt's Trans. p. 199 ff.

² Cf. Hopkins' 'The Great Epic', pp. 53-4. See Chap. XI on the Philosophy of Dharma.

³ Āranyaka Prava, 2.

⁴ Āpaddharma Parva, 142.

⁵ Mokshadharma Parva, 190.

⁶ Anuśāsana Parva, 117.

⁷ Bhishma Parva, 3.

⁸ Rājadharmānuśāsana Parva, 109.

State of Nature and Law of Nature

This prologue was not unfit for the imaginary description of Anarchy or the "socio-plasmic state of nature," the condition of life without law and order, which needed control and restraint, or in short, organisation. This fanciful state of nature, prior to regulated social life, is taken for granted without criticism. A typical picture of anarchy is drawn by the Mahābhārata in the following extract from the three accounts of the state of nature in the Śānti Parva, Chapters 67, 59 and 15,—

"Just as creatures are unable to see things when the sun and the moon do not shine and everything is in darkness, just as the fish in shallow water and the birds in the wilderness attack one another and die, similarly the people fall into ways of sin like shepherdless cattle when there is anarchy in the land. The strong easily rob the weak of house and things; none can live to rear the family and to earn livelihood. The course of the world comes to a vanishing point. The wicked suddenly attack the good with weapons, and the country is filled with sin. Old parents and perceptrs are troubled, tortured and murdered, and the rich are molested, maltreated and killed. Nobody has the sense of "mine-ness", i. e., claim on anything, and everything undergoes decay. All the places are filled with robbers and all the people fall into unrighteousness. Respect for women and trade and business disappear. The study of the Vedas, the rites of sacrifice, the rules of marriage, social regulations and caste duties disappear. All creatures are filled with fear and anxiety and stupor and die shortly howling and screaming. Offenders live in safety; the strong ones easily break all rules. All fly away terror-stricken, caste-mixture and famine

prevail everywhere.¹ Any two unite to rob one, afterwards many unite to rob the first two,—even the wicked cannot be happy. Enjoyment of wealth, property and wife becomes impossible. The strong carry away women and make slaves of the helpless men.² Religious sacrifices lasting for a year with suitable gifts can never be performed with safety. Crows would carry away sacrificial materials and dogs would lick the sacrificial butter. All things would be disorderly and all rules would disappear.”³

But even here the Epic thinkers are divided in their opinion, as to the character of anarchy or the state of nature, only agreeing in the recognition of the condition itself intervening at a certain stage. According to Mr. Sen, “Sometimes, it is a state of bliss, sometimes, a state of uncertainty, while more often it is a state of war”.⁴ Dr. Ghosal has classified the one as Canonical, i. e. orthodox, and the other as Secular, i. e. detached from the old modes of thought.⁵ It is exactly like the difference between Hobbes and Locke.⁶ A further analysis is required to

¹ Śānti Parva, 66.

² Ibid, 67.

³ Rājadharmānuśāsana Parva, 15.

⁴ Studies in Hindu Pol. Thought, p. 47. It is not right, as Gettell says, that the Hindus had no Golden Age nor a Garden of Eden in their politics. (Hist. of Pol. Thought, p. 27).

⁵ Hist. of Hindu Pol. Theo., p. 135. A purely secular anarchy is described by the Yogavāsīṣṭha Rāmāyana—“The nether world remained kingless for long and for the want of a ruler, Pātāla fell into the confusion of the logic of the fish. Men of good quality began to behave like worthless chaṇḍālas; strong men began to rob and enjoy the property of the weak. Respect and position of men altogether disappeared; women were oppressed by all and they began to steal one another's clothes. Oppressed persons wailed loudly. In short the interior of the place was out of all order. The garden trees were all broken down and the men of the city lost their wealth and relations and fell to the ground over-whelmed with sorrow. . . . Their kinsmen were attacked by robbers and were rendered beggars of the street without food and shelter etc.” (P. 319, Baṅgabāsi Edition).

⁶ Natural Rights, p. 42.—“For Hobbes the state of nature is simply

make the difference clear for the purposes of political philosophy. Dr. Ghosal says that "While the canonist conceives it to be initially a perfect state, the secular writers consider it to be wholly evil from the first".¹ The point of contact between the two sets of thinkers is evidently the instability of society or the condition of the "logic of the fish", either through gradual degeneration or from the very origin.

The first stand-point is that—"At first there was no Government, nor king, nor punishment nor punishable offenders in the world. Men lived only by righteousness (dharma) protecting one another." This natural righteousness governing men's conduct is but the counterpart of their natural reason and may be conveniently equated with the law of nature and the dictates of right reason postulated by Locke and Pufendorf.² The second stand-point maintains that "In olden times there being no king on the earth the people began to eat up one another (like the fish). Then some good men gathered together and made a law to forsake those who stole property etc."³ Both views are placed side by side in the Mahābhārata, giving rise to two distinct theories of the state, when the trends of thought are followed up consistently; the one leads to Constitutionalism limited by conditions and the other ends in an indefinite assertion of popular authority tending to be absolute. The immediate causes, which brought about the formation of government, in both cases monarchical (after the Vedic Election), were in one instance "moha"

what would remain if all human institutions were taken away; and this state of nature would be a state of war of all against all. Locke has an idea of a golden age existing even after government has come into existence,—a time when people did not need to examine the origin and rights of government".

¹ History of Hindu Political Theory, p. 185.

² Śānti Parva, 59. Studies in Hindu Pol. Thought, p. 39.

³ Śānti Parva, 59, 71.

(infatuation—error), and in the other “grief”, (due to failure) after the temporary working of the social contract, as distinct from the later governmental contract. The two positions are—

(a) “At last they began to feel mutual protection to be troublesome and moha (infatuation) entered their minds. Due to moha their reason and righteousness disappeared.”¹

(b) “But afterwards they were grief-stricken and approached Brahmā, the creator, saying we are suffering for want of a king”.²

It is quite clear from the contexts that the infatuation was due to taking trouble for others unselfishly and the grief was due to their failure in keeping society going by the first Contract, which was social and not governmental.³ Both views have the two contracts put together, The former wished that the “*Law of Nature*”⁴, created by god Brahmā, might not perish, as it was ordained by Brahmā himself. The latter tried to rouse “*mutual confidence*”⁵ in all castes by an agreement against undue license. But the transition, from the first stage in the state of nature to the second stage, is not explained any more beyond saying that men began to commit errors owing to infatuation or became grief-stricken because of their failure in preserving society. So a growing degeneracy is taken for granted, through the story “continually oscillates between the actual and the ideal”,⁶ as it is found in Rousseau.

This social pessimism, it must be added, is not new in the Epic, which believes that “men of real good nature

¹ Ibid. 59. ² Ibid. 67. ³ See Supra, Theo. of the State.

⁴ Śānti Parva, 59. Tvat-prabhāva-samuthyosau svabhāvo nāvinaśyati. (Śānti Parva, 59, p. 137).

⁵ Ibid. 67. Viśvāsārthañcha sarveshām varṇānāma viśeshatah (Śānti Parva, 67, p. 160).

⁶ See Studies in Hindu Pol. Thought, p. 40.

are extremely rare".¹ Manu had it and it was handed down to so late political thinkers as Kāmandaka and Śukra. It may also be traced back to the Ṛig Veda. The Purāṇas of course abound with such ideas. Manu has categorically stated—

"Rare is man pure (sinless).²

People are prone to interfering with the rights
of others".³

And violating morals and manners".⁴

Kāmandaka in his Nīti Sāra, says "Men are by nature subject to passions and are covetous of others' wealth and wives."⁵ Śukra thinks that "men as well as beasts have to be always governed by adequate punishments."⁶ But Kauṭilya is perfect in this respect in holding that "people are full of sins on the one hand, and kings are naturally misguided on the other."⁷ The Ṛig Veda anticipated the subject matter of such contentions by stating "surely there will come succeeding times when brothers and sisters will do acts unmeet for kinsfolk."⁸ That the view taken of human nature determines considerably the character of politics, whether in theory or in practice, is illustrated in Indian thought as well. It may be posited that according to the conception of the intrinsic goodness or badness of the nature of man politics puts on the colours of anarchism or absolutism.⁹

Social Contract

The conclusions of these political thinkers are important for the problem of authority in general, in determining its character as well as its direction. The pessimism of

¹ Rājadharmānuśāsana Parva, 15.

² Manu Saṁhitā, VII, p. 22.

³ Ibid. VIII. p. 21.

⁴ Ibid. VIII. 23.

⁵ Nīti Sāra, p. 24.

⁶ Śukra Nīti, p. 233.

⁷ Arthaśāstra, p. 244.

⁸ Ṛig Veda, X. 10. 10.

⁹ Cf. Soc. & Pol. Ideals of the Rev. Era, p. 153.

the Epic has special bearing on the constructive part of the social contract. The request for the supply of a king being granted by the god Brahmā, the governmental contract was completed. There are two accounts of such governmental contract conspicuous for divergent conclusions. In the historical treatment Prithu was bound down by a *constitutional oath*, as the first really governing king, after a number of fruitless trials with his six ancestors. This goes naturally with the subject of the Theory of Constitution deserving treatment by itself. In the mythical account, Manu after his first refusal took up the management of the state on suitable conditions offered by the people, who were also to make their first king "grateful" to them by supplying all necessary materials. The statements by these kings, as given below, show their respective positions :—

- (a) Prithu—"O sages! Point out the works I shall have to do. I shall carry out your commands without hesitation."¹
- (b) Manu—"I am afraid of sinning...the conduct of government and specially setting the wicked to their duties is a difficult task."²

Under Manu the whole state is practically managed by popular arrangements. The people were responsible for raising finance and army, the two great sinews of the state, since the time of the Vedic elections,³ and these two elements form the fundamental basis of popular authority. Taxation and military affairs, being in the hands of the people themselves, nothing more is left to be done than ingratiating the ruler with gifts of those things that were considered essential to his personal position and use. The people proposed to Manu—

¹ Śānti Parva, 59.

² Ibid, 67.

³ See Supra, Ch. IV on Vedic Election.

"Lord do not fear.....We shall give for the treasury the fiftieth part of our gold, tenth portion of our paddy and good-looking (serving) girls in case of quarrels, gambling and toll-taking...Our men who are versed in the use of arms and chariots shall follow you...and one-fourth of our religious merits shall be your share...It is the duty of the people to supply to the king clothing, ornaments, conveyance, food, house, umbrella (and mace) and other necessities... so that he may be unconquerable by enemies ; self-controlled and loving and grateful to the people, and careful in protecting them,'¹

The pure and unalloyed Social and Governmental pacts go in fact to raise popular power to the highest pitch by keeping it indefinite and therefore unlimited by conditions. They furnish everything needed, even a portion of the religious merits, and the king is no better than an elected and salaried servant of the state. He is raised or reduced to such a position that no scent of his autocratic power is left in the contract, his dependence on the people being complete and absolute. It is only the state that has the sovereign power, representing the authority of the people. The doctrines of payment for the *king's office* according to the canonical laws² and for *service to the people* according to the Buddhist tradition³ are seen in this portion of the agreement in their most condensed forms. The institution of property and the principle of punishment rising out of the formation of the state will come in their proper places. Professor B. K. Sarkar's admirable suggestion about their sources requires special attention, in order that their nature and growth may also be set forth fully.⁴ Similarly

¹ Śānti Parva, 67, and Supra, Ch. I, Origin of State.

² See Supra, 'Nature of Kingship', Ch. II.

³ Ibid.

⁴ See Pol. Ins. & Theo. of the Hindus p. 203.

Taxation is to be dealt with separately after the subject of Constitution.

Revolutionary Thought

The other political reflections, that lie scattered in the great Epic along with the social contract theory, may be mentioned here as contributions to the question of popular authority and as furnishing the standard of equality and freedom even up to the right to revolt and tyrannicide, whenever circumstances ushered them in. They are really the by-products of the political speculation of the age.

(a) All men have similar bodies and souls.¹

(b) All men are possessed of all qualities (latently).²

(c) In reality everybody has equal claim to every object.³

(d) The king and the people are both of equal power and quality.⁴

(e) All men are like kings holding absolute sway in their own homes.⁵

These ideas are revolutionary in politics, as much as in the fields of Ethics and Sociology. Perhaps nothing in the whole range of Sanskrit literature can stand by them, excepting the superb doctrine of the soul in the Upanishads. It is difficult to find out how far the Epic was influenced by the Upanishadic thought. But it can be safely stated Upanishadic speculation was the source of inspiration in many instances in later literature. The very basis of social philosophy was laid down in the Vedas in the

¹ Anuśāsana Parva, 168.

² Śānti Parva, 188.

³ Aśvamedhik Parva, 32.

⁴ Rājadharmānuśāsana Parva, 89.

⁵ Mokshadharmānuśāsana Parva, 321.

identity of the self and the neighbours,¹ based on Vedantic conclusions. Further elaboration and expansion were certainly needed to arrive at the surprisingly advanced social ideas of the Mahābhārata. The conception of popular right was thus fully developed in the Epic period. Its operation through consent is seen in the custom of election and the theory of Social Contract; its safe-guarding will be seen in taxation and revolution.

E. W. Hopkins' remark on the social contract of the Epic deserves some attention in closing this section. There is not the least doubt that this contract with Manu was based on the clear understanding of mutual advantage and reciprocity. But Professor Hopkins says "that the relation is, in a word, trade, as is often candidly said, of so much moveable property, for so much protection."² The question is not in reality one of pure trade, although there is involved such an idea of mutual giving and taking, without which no organisation of any type could be carried on, except that of charity, if it could be so classified. Inlaid in the social contract in the element of the good-will of the people together with a fair suggestion of moral and spiritual responsibility. All this is perhaps due to the special genius of the Hindu Aryans on the Indian soil. Moreover since politics away from society is impossible, the words "gratitude", "worship" and "religious merit" in the text do not seem to be used altogether in vain.

On the other hand the old tradition, from the Rig Veda, of Manu, the patriarch, and his royal seed is kept³ intact and the equally ancient custom of the Vedic election of kings is theoretically and practically observed in the case of the father of the Indo-Aryan polity, (Manu), who thus becomes

¹ Deussen. *Phil. of the Upanishads*, p. 49. ² J. A. O. S. XIII. 1924.

³ Rig Veda, I. 130; IX. 92; X, 17—Maxmuller considers this interpolation. *Jivani Kosh*, II.

the first elected king in the social contract. Hence the theory had to take into account a number of ideas, before it could be formulated into its Epic shape, and they were all solid and powerful ideas, such as those of tradition, custom and religion. It ought also to be noted that the word "*protection*" is a technical term in Aryan political science coming down from the Dharmasūtras (sacred laws). It includes "favour (reward) and punishment (restraint)" and spiritual good ("expiation").¹

The Vedic time stands by itself as regards its own political ideas. The achievement of the contract theory in elucidating the principles of popular authority is in no way poor in the Epic and the Buddhist Age. If "the principle of consent.....is the ruling idea of what is now-a-days called democracy",² there is in the agreement of the people the explanation of their obedience. In the Epic the people said (agreed) "we shall worship him" (the king) and in the Buddhist canon they accepted the king, as "*rājan*", for pleasing the people, from the root "*rañj*", meaning "*to please*."³ This idea occurs also in the Mahābhārata and repeatedly in Sanskrit Literature as a popular standard. The under-current of thought in these two types of consent is that of the common object or good of all in the mind of all, for which the head of the state was needed. This was conspicuous in the Vedic Age in purer theory and although it did not rise to anything like the formulation of the

¹ Sānti Parva, 59.

² Adapted from Webb's Divine Personality and Human Life, p. 142.

³ Dīgha Nikāya, 3, p. 92. Rājadharmānuśāsana Parva, 59. Vide Supra, Chs. I and II. and Infra, Ch. VIII. Kalidas, Raghu, Ch. IV. 17. Dr. Jayaswal has given a different etymology—"The word, *rajan* or *raja*, which comes from *rat* or *rash*, means a ruler and is allied to Latin *rex* and *lex* and German *rat*. Its derivation as given in later Sanskrit—that which *shines* and that which *pleases*—is merely fanciful like so many other derivations of our imaginative poets (Intro. to Ind. Pol., Mod. Rev., July 1913, p. 77). Vide Chaps. I and VII for details.

"general will", its force was clearly perceived and equally expressed in a quasi-metaphysical way by eloquent figures of speech. It appeared again in the theories of group formation and republican combination.¹ Yet it may be said that the conceptions made for a weak and undeveloped effort at showing the objective mind among the different elements, as is the idealist position. Thus there can be no doubt that within the congeries of the Vedic and the Republican ages a permanent element is always present partly above and partly below the level of consciousness and directly or indirectly guided by considerations bearing on the common good.²

The abstract state in the modern sense as "the operative criticism of all institutions" in the language of Bosanquet, was perhaps never born in Aryan thought. The approach to such a concept has been taken up with the Philosophy of Dharma (righteousness), as far as it can be embodied in the state from the moral and spiritual standpoints. In Hindu thought Dharma is an all-comprehensive standard applied to Ethics, Politics and Social science. It judges the state itself, which in its own turn represents the condition reached by society in general. It is the unfailing index to social and cultural progress. State control of institutions can in all cases be tested on the touch-stone of dharma, for the state, in order to be good and efficient, must give expression as much as possible to this supreme ideal.

¹ See *Infra* Chap. XIV. Group Life and Chap. XV. Republics.

² Adapted from Hobhouse's *Metaphysical Theory of the State*, p. 125.

CHAPTER V

VOX POPULI

Before the abnormal phenomena of revolution and tyrannicide are noticed in the pathology of the state, the place of public opinion and popular voice needs to be considered in relation to the political life of the people at large and the social conditions which support it. Great popular upheavals, whether in the inceptient form of mere agitation or in the practical shape of actual rebellion, which gradually produced the dangerous doctrine of resistance and revolution, certainly had a latent or germinal stage in the vox populi in general. But on the question of the exact bearing of such a factor on political theory it is difficult to pronounce in a definite way. Mr. Jayaswal speaks of "the royal solicitude to find out public opinion on royal conduct and administration.....which went to limit the arbitrariness of the Hindu monarch"¹

Popular voice is recognised in the Vedic records as well as in the Epic and purely secular political literature, sometimes in its weak social expression and occasionally as positive political maxims of great weight and value. It is also connected indirectly with the problem of popular consent in relation to taxation² and other state measures of a similar nature, where state authority imposes itself on the total area of society or community life. The simple social aspect or what may be called the "local view", limited perhaps to one community or a small portion of it,³

¹ See Intro. to Ind. Polity, Jayaswal, Mod. Rev., Aug., 1913, p. 203.

² See *Infra*, Ch. XIII, Prin. of Taxation.

³ See *Infra*, Ch. XV, Group Life.

can hardly be separated from the broad pronouncements of theorists and thinkers based upon the general will, for everywhere "public opinion is a harp of a million strings played upon by winds from all directions"¹. This is specially true of the dim past represented in the Vedic age, and may also be applicable more or less to the Epic period with its many massive streams of political thought, until individual writers took the field, with their own separate contributions forming different systems like those of the Buddhist and later times.

General Aspect.

In the earliest (Vedic) social conscience, approbation and reproach in the eyes of men were considered potent factors in the moral judgment of the time. Any person in authority in public or family life, (it cannot be said with certainty which is meant particularly in different contexts), was greatly influenced by them and necessarily prayed that the worse might not fall to his lot before all. Hence social criticism connected with the custom of making gifts, presents, etc., at religious ceremonies and gatherings would be the lowest form of "public opinion" out of which its powerful political counter-part might be said to rise and grow, until the latter becomes an organised force expressing popular will almost as in the modern time.

Some social implications of a public character are illustrated in the lines below in relation to tribal gatherings for sacrificial rites—

(a) Agni, preserve us, thou victor (god) from dishonour".²

¹ Schmoller, Grundriss, I, p. 14.; See Lippmann's Public Opinion, p. 146.

² Rig Veda, VII. 4. p. 7. Griffith's Trans.

(b) Yes, many men with hands stretched out, with guerdon present their gifts, because they dread dishonour".¹

It appears that there was possibly such a thing as social pressure, which is always an important element in the early stages of society. But this is at a great distance from political public opinion. A few passages are quoted here in order to show that both the positive and the negative sides of popular opinion, however unorganised, conveyed in love and hatred, likes and dislikes, popularity and unpopularity, counted much with those, who themselves governed or managed the government in some way. It has also to be pointed out that it is not yet abstract and objective, so as to be expressed in the form of rules or maxims.

"Give us not up to man's reproach,

To foe-man's hateful calumny,

In thee (god) alone is my strength".²

A general opinion, comprising all shades of it from all directions, is quoted here—

"Conquer all evil-hearted ones ; make many well disposed to me,...Do thou, O Darbha (charm) make me dear to Brāhmana and Rājanya, dear to Śūdra and to Arya dear, Yea, dear to every man we love, and to every man with eyes to see."³

These extracts may have some political import, though it may not be directly available from the context. Their importance cannot be over-rated.

Political Aspect

Consideration for public opinion from the political stand-point may be said to be very clear in the secular

¹ Rig Veda, X. 107. p. 549. Griffith's Trans.

² Rig Veda, VII. 31. p. 31. Griffith's Trans.

³ Atharva Veda, XIX. 32. p. 575. Griffith's Trans.

writers of the "Arthaśāstra School". Its absence in the orthodox works (canonical writings) is rather conspicuous. Kauṭilya's is the earliest notice, while Bṛihaspati is most pronounced in his view in his own laconic style. In the Sūtra (Aphorism) period, abstract thinking was highly developed, and in Brihaspati's Polity (date uncertain) two of the maxims point to the force, which popular opinion succeeded in exerting by that time. Bṛihaspati has advised the king thus in his chapter on royal duties—

"Even right he should not practise when disapproved by the world. Should he practise it, it should be after recommending it to persons of intelligence".¹

The great Kauṭilya in spite of his imperialism roundly asserts and that in a positive fashion that—

"It is unrighteous to do an act which excites popular fury, nor is it an accepted rule".²

The Mahābhārata also reveals the practical phase of the royal conduct by predicting failure when there is popular opposition. With reference to the king's actions it makes most emphatically a general statement that—

"Any person who is disliked by people can never expect to achieve the desired result".³

On important constitutional issues, the Epic shows through and sound grasp of the principle of popular approval and support. This is, perhaps, the best statement of constitutional practice found in the whole range of Hindu political literature. It is said that after a resolution has been passed by the preceptor and three ministers the king should refer it to the public for approval.

"When the preceptor having heard the four (the king and the three ministers) from beginning to end

¹ Bṛihaspati Sūtra, I. 4. p. 16.

² Artha Śāstra, p. 317.

³ Śānti Parva, 86.

has fixed a conclusion, it should be carried out into action by the king, on condition that it is approved by the general public".¹

Both Kāmandaka and Śukra are careful in treating the subject of popular pleasure and displeasure in conformity with the interest of the state. Śukra agrees with Bṛihaspati in holding that even moral principles have to be suspended before popular opinion on prudential grounds—

"An action which is religious, but disapproved by the people does not lead to heaven".²

Kāmandaka also remarks almost in the same strain—

"That is injustice the execution of which is denounced by them, (i. e. venerable people)".³

Hence his advice to the king is that—

"A king should win the good-will of the public...and he should not excite the anxiety of his subjects".⁴

Here he is at one with Kauṭilya in seeing the danger in popular anger. Moreover he lays down the rule in general that "public opinion".⁵ and the "opinion of the world",⁶ should be very carefully gauged by means of spies sent out for the purpose. Kauṭilya is also elaborate on the spy-system in the state service,⁷ but he is not so explicit on the point of public opinion, as on the dangers to the state. Public opinion, as a matter of course, means greater organisation of society as a whole. Kāmandaka, it must be admitted, had occasionally more advanced democratic ideas than his master,—thanks to the progress of time—his main theory being :—

"Royal prosperity depends on the good-will of the multitude"⁸,

¹ Ibid, 83.

² Śukra Niti, p. 107.

³ Niti Sāra, p. 65.

⁴ Ibid, p. 208.

⁵ Ibid, p. 192.

⁶ Ibid, p. 187.

⁷ For the spy-system of Kauṭilya see his Artha Śāstra, pp. 20-23.

⁸ Niti Sāra, p. 31.

Śukra's injunction on the question of popular opinion is plain and simple. It is mainly that—

"One should consider.....popular opinion".¹

It is a general statement on the face of it, like the one of the Mahābhārata and includes kings and other individuals. Therefore kings must take special care to appoint officers "who enjoy the confidence of the people"² and—

"He should dismiss the officer who is accused by one hundred people".³

Again—

"He should take the side not of his officers but of the subjects".⁴

The hundred men standard is a remarkable test in Śukra's system for the validity of vox populi as well as for its power. It may seem to be in certain respects crude, but nothing is a better indication on the part of authorities that popular opinion is really respected and sought by them in the conduct of affairs, than the criterion of the similarity of demand from a good number of men. This is enjoined, it appears from the nature of the case, to guard against an event like the "three tailors of Tooley Street trying to represent the whole of England". Professor Sarkar's note in his translation of Śukra-Nīti has stretched this standard too much.⁵ It has been critically examined in Note 3 of the Appendix.

Kāmandaka has similar instructions that persons "who have incurred public displeasure should be done away with",⁶ and a "wise monarch should pacify disaffection".⁷

¹ Śukra Nīti, p. 125.

² Ibid, p. 257.

³ Ibid, p. 52.

⁴ Ibid, p. 51.

⁵ Sarkar's Trans. of Śukra Nīti, p. 51; See Note 3 in Appendix.

⁶ Nīti Sāra, p. 65.

⁷ Ibid, p. 219.

It is worth noticing here that the part played by consent in taxation, in election and deposition of kings, and even in resistance and revolution, is intimately associated with vox populi in its representative character. Consent, being one of the basic principles, appears prominently in connection with all constitutional practices in every age in ancient India.

CHAPTER VI

DOCTRINE OF RESISTANCE AND REVOLUTION

This doctrine turns on two hinges—Administration and Taxation ; any dislocation of them affects the whole system based on recognised and accepted law and custom. It is difficult to fix definitely the legitimate limits of Resistance and Revolution, so as to point out definitely the exact nature of their operation, beyond which both would be termed illegal and unconstitutional. Mr. Arabindo Ghose holds that “any prolonged outbreak of autocratic caprice, violence or injustice seems to have led before long to an effective protest or revolt on the part of the people”.¹ No more than a general statement and criticism of the doctrine can be attempted here in the absence of the data, historical and theoretical, for any detailed treatment.

Resistance in general is taken up first as it means thwarting authority that tended to be autocratic or more than what could be supported by popular tradition, custom and law concentrated and preserved in the state. Undue taxation naturally comes later for theoretical treatment,

¹ A Defence of Indian Culture, Arya, Oct. 1920, p. 178.

being only a specific case of mal-administration or unconstitutional procedure, which went against popular rights and the democratic principles laid down constitutionally. Though it seems probable that arbitrary taxation usually supplied the first practical cue to popular movements against the king or the government, nothing can be definitely stated as to the most prominent and powerful of the causes of revolution. Many instances are available of misrule, over-taxation, and high-handedness for which kings were fully and condignly punished. Khalinetra, Pururava, and Vena are examples of each of the types.¹ Plenty of similar instances are cited in Kauṭilya and Śūkra.²

Resistance to High-handedness.

In the Vedas

That tyranny and oppression of any kind were against the grain of early Aryan society and were naturally disliked and opposed by the people, in view of their age-long political outlook, is seen *prima facie* in the records of the Vedic and Epic deposition and expulsion of the arbitrary rulers.³ Such contingencies were perhaps necessitated in their political life by things going against hoary customs or traditional laws, when such things could not on any ground be reconciled with their habits of thought. In fact their political thought, as that of any nation or community, had its own precedents as well as a more or less rigidly-formed back-ground against which comparisons could be possible and exceptions were made or taken. Notable examples of good government were extolled in religious as well as secular literature. The Vedic ideal is that under which the people "happily thrive" being given

¹ *Asvamedha*, *Ādi*, *Śānti* Parvas cited in Note 2 on Election, in Appendix.

² See Ch. VII. Divine Right and Note 2 on Election, Appendix.

³ See *Supra*, Ch. IV, on Political Authority, and Note 2 in Appendix.

"peace and rest" and they have the "sovrän whom all people love".¹ The Epic standard is that in which "the people were all righteous, contented, fearless and free." and again "healthy, fearless, successful in all efforts and freely living in villages as well as fields".² The references, suffice it to say, are to constitutional monarchies and not to the so-called "benevolent autocracy" of non-Hindu India. Any undue falling away of such classic criteria naturally produced disastrous results.

It is under a culture and mentality of this type that prayers were offered invoking in aid the supernatural powers of the gods suitable to the contexts of the circumstances. The war-like god, Indra, as the national saviour, is praised for protecting the people from those who brought political subjugation and the loss of valued freedom. consequent on aggression taking place or power slipping away. This god is spoken of in the following verses from two different hymns :—

"Blazing it were, he burns each covetous man away,
He burns the *tyrannous* away".³

"Thou, for the people who oppress, hast kindled
The earthly firmament and that of heaven,
With heat, O Bull (strong one), on every side
consume them".⁴

This is revolution within the mind, only short of action. In theory oppression and tyranny are consumed and consumable by the fiery thunderbolt of the god Indra, and they are never to be brooked on any account. Similar attitude is marked towards the enemy, whose presence meant loss of liberty.

¹ Atharva Veda, XX. 128.

² Śānti Parva, 21.

³ Rīg Veda, I. 130, p. 181.—"Dakshannaviśvam tatrishānameshātīnyar. sasānamoshati" (Lahiri's Ed. p. 82.) Maxmüller's Text, p. 117.

⁴ Ibid, VI. 22, p. 583.

"Let not the sinful tyranny of any fiercely
hating foe

Smite us, as billows smite a ship.
O Agni, god, the people sing reverent praise
To thee for strength".¹

Such a united prayer for strength by the people cannot but indicate a popular upheaval spelling firm determination to resistance. The terms "tyrannous", "oppressive", and "tyranny" in the quotations allude to things positively disliked by the people. The expressions used against any warring and conquering enemy are equally strong and vehement, and are backed up alike by religious sentiments.

A prayer to Br̥ihashpati shows how the people never liked to be under an undesirable man and therefore wished for his death. It is most probably a case where their own efforts could do nothing and were ineffectual.

"Let not the guileful wicked man be lord of us,
Still may we prosper singing godly hymns of praise.

.....
Who so with mind ungodly seeks to do us harm,
Who deeming him a man of might mid lords,
would slay,

Let not his deadly blow reach us, Br̥ihashpati,
May we humiliate the strong ill-doer's wrath".²

But a much stronger appeal is found in the Atharva Veda, though the spirit is the same as well as the object. A whole hymn in this Veda gives a prayer for overthrowing the oppressor together with his dominion. Very likely according to the belief of the time in the efficacy of reli-

¹ Ibid, VIII. 54, p. 224,

² R̥ig Veda, II. 24, 11—12; Griffith's Trans., p. 288.

"Mā no duhśamsō abhidipsurīṣata prasūśamsā matibhistārīṣimahi".
(Lahiri's Ed. p. 601, 1st Verse). Cf. Maxmüller's Text, p. 151.

gious rites turned to the fulfilment of objects, a sacrifice was held for the purpose of giving strength to and gaining success for popular demands. The prayer itself is called the "thunder-bolt" just as George Herbert named prayer "reversed thunder", and the power of universal cosmic law is supposed to supply the necessary potency.

"This thunder-bolt shall take its fill of order,
Scare life away and overthrow the kingdom,
Tear necks in pieces, rend napes asunder,
Even as the Lord of might the neck of Vṛitra,
Down down beneath the conqueror's let him not rise,
Concealed in earth, but lie down smitten with
the bolt.

Seek ont the oppressor, yea,
Strike only the oppressor dead,
Down on the fierce oppressor's head,
Strike at full length, O Thunder-bolt !"¹

It is just one of those instances of taking to supernatural methods frequently found in the Atharva Veda. When ordinary means failed utterly, or at least proved to be futile, the primitive mind tried to fall back on magic &c., or what seemed to them an unknown and inexhaustible spiritual power. In fact the nature of man seeks the supernatural exactly in cases of disappointment and despondency.

In Sacred Law

Unlike Vedic thought, orthodox canonical writing on this topic are scientific in method as well as didactic in tone, compared with secular political literature, some of which are earlier productions. They have the advantage of being the authoritative pronouncements of the most

¹ Atharva Veda, VI. 134. p. 320. Griffith's Trans., and Note.

widely accepted school of social thought standing next to the universally recognised sacred books. Manu and Yājñavalkya are important representatives in the field of canonical legislation, who take precedence naturally on the ground of their traditional position and the subject matter of their works. Manu, as a legislator, deals with tyranny and oppression in a thoroughly radical fashion in his sacred institutes. Immediately after taxation, which is naturally the first and surest test for authority, tyranny is taken up for treatment. The famous law-giver sees in it the great danger of moving popular anger and setting it aflame in the long run—

“As the lives of living beings perish through the torture of the body, so the lives of kings are also destroyed through torturing the kingdom”.¹

Tyranny according to Manu means in some way or other letting loose the forces of destruction involved in revolution. His commentator, Kulluka Bhatta, explicitly states it to be “the anger of the people”, which is only implicit in the original text, but he does not specify the expression of such anger or its particular cause. All sorts of oppression are included in the word “torture” as a generic term and it is perhaps the strongest that is available in Sanskrit vocabulary. The physical body and the body-politic both give way under such torture resulting in the death of the individual and of the ruling head.

Yājñavalkya Smṛiti, which is considered important after Manu’s Code, is equally trenchant in its radical and independent thought, although it must be admitted that

¹ Manu Smṛitī, VII. 112.

“Śarīrakarṣanāt prāṇaḥ kṣhiyante prāṇināṃ yathā

Tathā rājñāmapi prāṇaḥ kṣhiyante rāṣṭrakarṣanāt”.

(J. Nyāyaratna’s Ed. p. 373) See S. B. E., Vol XXXV, p. 232—

Buhler has “tormenting.”

such principles are never expected ordinarily in canonical politics. Yājñavalkya might have drawn on the same sources as Manu, and used the legal traditions of the past,

His law on tyranny is—

“The fire engendered by the grief consequent on the oppression of subjects does not return without consuming the family, prosperity and vital airs of the king”.¹

Even in the south Tiruvalluvar kept up the Sanskritic tradition and outlook. He was didactic like the ancient law-givers and condemned the high-handedness of monarchs in his inimitable maxims. He was also prophetic and outspoken and used the strongest terms about such rulers—

“Behold the prince, who oppresseth his subjects and doth inequity : he is worse than an assassin. Behold the thoughtless prince, who swerveth from the ways of justice : he will lose his kingdom and his substance also. Behold the prince, whose cruelty is a by-word among his people : his days will be shortened and he will perish forthwith.”.²

In the Great Epic

The Mahābhārata is more thorough and shows two sides of resistance, *negative* and *positive* : the former is seen in desertion and the latter in opposition. In one case it is like *passive* resistance,³ while in the other it assumes the character of active subversion of the state. After the general statement that “the oppressing king vanishes like the lightning”,⁴ it is worth considering what the Epic

¹ Yājñavalkya, 341, p. 55

² Kural, pp 117, 119.

³ See *Infra*, detailed treatment.

⁴ Śānti Parva, 120.

goes on to advise, probably as the mildest measure or the minimum action, on the authority of the school of Prachetas Manu—

(a) “An unprotecting king, a bad-tongued wife, a silent teacher, a wandering shepherd.....should be deserted like a leaky vessel in the ocean”.¹

Again—

(b) “A bad king, a bad country, a bad wife, a bad son, &c., should be deserted by all means. For in a bad king’s realm there can be no happiness and in a bad country no living, no love in a bad wife, no trust in a bad son &c.”²

(c) More definitely—“that king should be deserted, who takes to actions against righteousness under the influence of bad time and against good advice”.³

But the thing does not end here, although it might be said that the above prescriptions are in keeping with the essentially Hindu spirit of noble “ahimsā” i.e. non-injury. The political school of Śibi advises more drastic operation as the right antidote to misrule and arbitrary government. It is positive revolution and tyrannicide—

(a) “The king, who does not care (properly) to discharge the duty of protecting the people, having accepted such responsibility, should be destroyed by all like a rabid dog”.⁴

Another political thinker Vāmadeva cited in the Epic authorises the same procedure under like conditions, agreeing with Prachetas Manu—

¹ Ibid, 57. ² Ibid. 139, Cf. Śukra Niti, p. 20. ³ Bhishma Parva, 59.

⁴ Anuśāsana Parva 61—

“Ahañ bho rakshitetyuktva yo na rakshati bhūmipah
Sa samhatya nihanavyah śveva sonmāda āturah”

(Sinha’s Bengali version gives the meaning of “by all means”).

(b) "That unrighteous king, who acts under the influence of sinful ministers, should be killed by all, for he deserves to be slain together with his whole family".¹

(c) "They (kings) have no right to live, who do not protect people".²

The growth of revolutionary social and political thought evidently reaches its climax in the Epic age in the Māhābhārata. And although it cannot with certainty be stated how far it owes its origin and strength to the contract theory, yet the palpable breach of contract is easily and clearly seen to function in the production of popular decisions against the government. The phrases "having accepted such responsibility" and "under the influence of sinful mimisaers" prove that the state was going against the (explicit or implicit) expectations of the people and as such, against the constitution based on law. To interpret such law to mean tyrannicide is equal to prescribing punishment for breaking an understood contract. No other explanation is possible from the texts to point to a different conclusion for the stream of the revolutionary tendency which found its culmination in the great Epic. Śukra and Medhātithi bore the stamp of such ideas of the Epic, slightly modified by the canonical orthodoxy of the sacred laws. They are to be noticed below after the purely secular thought in the Artha Śāstra, the Nitisāra and the Śukra-Nīti.

¹ Śānti Parva, 92.

"Asat-pāpishṭhasachivo (rājā) vadhyo lokasya dharmahā
Sahaiva parivāreṇa kshipramevāvasidati".

Nilakanṭha has explained the phrase "asat-pāpishṭha-sachiva" as
'asaṁtāh dushtāh papishṭhāscha sachivā yasya sah (rājā). Bombay Ed. p. 94.

² Ibid, 89,

In Secular Politics

A large number of references to sedition, treason, and revolutions abounds in uncanonical political literature. Kauṭilya's Artha Śāstra is very particular in showing the Imperialist's careful attention to such distemper in the state.¹ Professor B. K. Sarkar has pointed out Kauṭilya's sharp and consummate diagnosis that "the wrath of the people is the supremest and the most dangerous of all wraths".² And indeed Kauṭilya says that—

(a) "A wicked king will surely destroy the most prosperous and loyal elements of his kingdom. Hence a king of unrighteous character and of vicious habits will, though he is an emperor, fall a prey to the fury of his own subjects....."³

(b) "Kings given to anger (i.e. going beyond their limits) are said to have fallen a prey to popular fury."⁴

Again at another place he gives the warning that—

(c) "Disloyal and indifferent subjects will endeavour to destroy even a strong king"⁵

Kauṭilya's tone, it is to be observed, is like that of Manu in being didactic rather than categorical. Both view the subject of popular fury or even popular rising

¹ Artha Śāstra, pp. 26, 240, 287, 300.

² Pol. Theo. & Inst. of the Hindus, p. 181.

³ Artha Śāstra, p. 321.

"Vivridhāśchānuraktāscha prakṛtirhantyanātmavān
Tatahsadushṭa-prakṛiti-schāturantopynātmavān
Hanyante vā prakṛitivyryāti vā dvishatām vaśam."

(Sastry's Text, p. 259).

⁴ Artha Śāstra, p. 397.

⁵ Ibid, p. 340. (for "indifferent" "disaffected" seems to be the better reading).

from the standpoint of the head of the government rather than that of the people. Both are royalists of the first water ; the canonical and secular views agree in this here. The conclusion of the author of the great Artha Śāstra is the general assertion that—

“Vice over-whelming righteousness will in the long run destroy the ruler himself.”¹

Thus even the Machiavallian principles of this political thinker give way before the solid facts of life, not infrequently experienced by him in his career as one of the greatest of practical politicians, and at length consistent thought forces him to arrive at theories of the greatest depth and highest vision.

Another key of the same scale is touched by Śukra, whose practical wisdom is a land-mark in Indian social and political science. He lays down the general rule that—

“The monarch who follows *his own will* is the cause of miseries and soon gets estranged from his kingdom and alienated from his subjects.”²

It follows from this all-round statement that in a monarchy the king's will was not supreme but limited, and estrangement and alienation were the results of out-stepping the bounds of authority deputed to the ruler. Śukra advises the people under such circumstances to give the ruler a chance to correct and rectify himself. This is obvious from the spirit of the following passage—

“When the king is addicted to immoral ways, people should terrify him by taking the help of virtuous and powerful enemies.”³

It seems possible that any unusually self-willed procedure on the part of the ruler is alluded to here and not

¹ Ibid, p. 242.

² Śukra Niti, II. 7-8, p. 55.

³ Ibid, p. 197.

simply bad character, which may be taken to be the meaning on the surface. The word "immoral" has the force of "illegal and impolitic" since the very next passage reads—

"So long as the man is virtuous, only so long is the king, otherwise both the king and the people are ruined."¹

Quite a number of things is included within the word "virtuous" on which the common good is said to depend. Professor B. K. Sarkar has a note here that "It is in this way that neighbours influence and greatly modify the *internal politics* and conditions of states."² Thus the king's immoral ways are more than those limited to his own self, affecting, as they do, the prospects of the body politic. It is after the failure of such means, as those resorted to by the people, that revolution is recommended, but not in accordance with the Epic prescription. Śukra's humane attitude sees in deposition enough antidote to the arbitrary tyranny of unprincipled despotism, and tyrannicide is unnecessary.

"If he be an enemy of virtue, morality and strength people should desert him as the ruiner of the State. In his state the prakṛiti (ministers or people) should install one, who belongs to his family and is qualified."³ The admirable considerations of the writer of this Niti is not unworthy of Aristotle's politics and shows the breadth of his views as well as the independence of his thought. To him "repression is folly"⁴ in all spheres, moral, social and political.

A spiritual touch marks out Kāmandaka's attitude, who closely follows Kauṭilya as his master and looks at the

¹ Ibid. p. 137.

² Śukra Niti, p. 137. footnote. see also Ch: XVIII. the Doctrine of Maṇḍala.

³ Ibid, p. 31.

⁴ Ibid, p. 119.

subject of popular movements almost from the same angle of vision. He makes a special contribution by pointing out how *sinful ways* of the head ultimately lead to the destruction of the state through gradual loosening of supports. Like Śukra, whose sanity is simply remarkable, he is conspicuous for giving a spiritual colouridg to the subject under treatment. His very comparisons are permeated with religious ideas. His standard though not so high as that of Śukra, is yet highly refined at least in reading the danger-signal in state matters—

“The status of royalty (is).....like sacerdotal dignity ; It is blotted with stains by any the slightest transgression.”¹

And then he proceeds to show how people naturally desert the king, when he is below their proper estimate in much the same didactic time, as that of Kauṭilya's Artha Śāstra—

(a) “A king with a wicked counsel is seldom approached for protection (by people) like a sandal tree begirt with snakes.”²

(b) “Like the rain-cloud, a king should be the source of subsistence to all creatures : when he is not so, he is forsaken by his people, just as a withered tree is forsaken by birds.”³

In the last analysis it is only a kind of passive resistance, similar to what has been noticed from the Mahābhārata later on, without the definiteness and precision of the Epic. But still Kāmandaka has his own suggestions to make from the spiritual standpoint and although he does not directly advise the people to take up arms and revolt and bring down the state, he sees clearly the logical and unavoidable results of persecution and oppression. His warning is therefore based on spiritual considerations, his argument

¹ Nīti Sāra, p. 172.

² Ibid, p. 31.

³ Ibid, p. 36.

indirectly being that ruin surely ensues through popular actions, as the effect of sin on the part of the head :—

“Persecution (of the people) can never bring about prosperity, as it breeds sin through which a monarch meets with his fall,” for punishments unjustly inflicted “excite anger even in those who have retired to the forest as anchorites.”¹

This moral retribution is true and certain even out of a single insignificant case, since the moral law can never fail. Are not revolutions said to start from small causes out of great grievances for mighty principles ? Kāmandaka sees this when he lays down as the Kural that—

“Even a poor man persecuted by the king kills the latter by means of his grief.”² Verily it is the tears of those groaning under oppression that wear away the prosperity of the king.³

It is anything unlawful and arbitrary that is supposed to work against the texture of the state and ultimately brings it down either through alienation or through opposition—the sure nemesis of irresponsible procedure. Further it is added that—

“Even slighting people may jeopardise the safety of the king’s life.”⁴

Consequently the author of the Nīti Sāra makes the general pronouncement as follows :—

“A worthless and unjust monarch carrying his prosperity to the very zenith meets with destruction even during his (apparently) sunny days.”⁵

But Kāmandaka also has a drastic prescription for unruly and unprincipled kings addicted to vicious ways. This is

¹ Nīti Sāra, p. 24.

² Ibid, p. 26.

³ Kural p. 117.

⁴ Nīti Sāra p. 58.

⁵ Ibid, p. 45.

called the method of "*Nālika*", as the last means. In Verse 55 of section V, he says "In order to reclaim him they (people) should have recourse to *Nālika*", which according to his commentator includes "punishment or *open attack*" among other items, such as conciliation, gift and *separation*".¹ *Nālika* literally means an instrument of success against an enemy.² Śukra's use leaves no doubt about the import of Kāmandaka's method.

An unexpected yet nonetheless important side-light is thrown by Medhātithi, the most famous among the commentators of Manu Samhitā. He endorses revolution under the most unlikely context of a section of Manu's laws on the ground of common object and interest. Practically he calls in question the authority of the king representing the state to destroy any one, who goes against the government for a right cause. The particular code under reference is Manu's VII, 12, which runs as—

"The man, who in his exceeding folly hates him, will doubtless perish, for the king quickly makes up his mind to destroy such a man."³

This is evidently the law relating to sedition and treason, but Medhātithi puts in a definite limitation and observes that—

"This injunction applies when men seek the kingdom out of sin (sinful motive), but not when they do so out of longing for a desired object."⁴

The object palpably means the unsuccessful redressing of standing grievances. The commentator uses in this

¹ p. 47

² Śukra has used the word "*nālikā*" in the sense of a fire-arm or gun (Śukra Niti, p. 236). It is also mentioned in the *Mahābhārata* as a weapon of war, but the meaning is not clear there. (Udyoga Parva. 51, Bengal Ed. p. 143). ³ Cf. Also *Śanti Parva*, 68.

⁴ See Mandlik's Ed. II, p. 760 : *Hist. of Hindu Pol. Theory.* p. 241.

connection the phrase—"aśakya-rāja nivedanena"—by application to the incapable king. It is under a closed option that such a course is advised. Dr. Ghosal thus remarks on Medhātithi—

"Rebellion is justified provided it is based not on the lust of power but on what may be called 'the will to sovereignty.' This startling doctrine is characteristically supported by the plea of the public good...and involves a deliberate modification of the canonical doctrine (viz. that of Manu and others) relating to the submission of the subjects."¹

Religious View

Again both Manu and Yājñavalkya apply religious ideas to politics and social science in the usual Canonical strain of the sacred laws. Unfairness of any kind is noticed by them socially as well as religiously. They point out the solid face of a spiritual principle underlying the royal administration of justice and its failure is threatened with loss and punishment even in the next world.

(a) "Improper administration of punishment leads to the destruction of (the attainment of) the celestial and other regions, and of fame (in this world)."²

(b) "If the king punishes the innocent and does not punish the offenders, the result is ill-fame (in this world) and hell in the next world."³

Resistance to Over-taxation—In the Vedas.

Traces of the spirit of keen resentment are found in the Rig-Veda against over-taxation or illegal and forced levy, or what in-principle would tantamount to the state overstepping its deputed authority. Even in case of conquest,

¹ Ibid, p. 242. ² Yājñavalkya, 357, p. 57. ³ Manu, VIII, 128, p. 443.

it would be taxing beyond popular endurance and against popular consent. A passage like the one quoted below clearly shows the feeling of temporarily impotent rage at unremedied 'law's delay.' The religious power of the rite of sacrifice is as usual invoked here—

".....Free us from the tax....."

Ascend to the celestial height, the heaven, where

Tribute is not paid to one more mighty by the weak."¹

It may mean, as has been already observed above, the tax imposed after conquest, but there is no doubt that it was against the popular will, which certainly under suppression waited for the flash-point. Perhaps this, together with other kinds of oppression, led to the deposition and expulsion of kings noted before in the preceding pages.² Compared with the attitude against tyranny in general, the tone of this passage is more pathetic and decidedly more restrained, the difference being due perhaps to special circumstances of the time.

In Sacred Law

Not infrequently was undue taxation made the root cause of the revolutions. Sacred and secular schools are both agreed on this matter, and sacred writing is unexpectedly strong. The code of Manu is explicit on this type of oppression and so is the Mahābhārata. Manu's significant admonition is as follows :—

"The king, who through excessive foolishness arbitrarily tyrannises (i. e. draws, extorts) over his state, has soon to lose his kingdom together with his own life and family."³

Yājñavalkya has also noticed illegitimate demands by

¹ Atharva Veda, III. 29, Griffith's Trans.

² See Supra, Popular Authority Ch. IV.

³ Manu Samhitā, VII, 111, See S. B. E. Vol. XXV, p. 233—Buhler is not explicit here.

the king, and is not different from Manu in this respect. His law on over-taxation is—

“A king who multiplies his treasury by unfair taxation from the kingdom, is in no time shorn of prosperity and meets with destruction along with his own people (relatives).”¹

The commentaries on the Manu Sāṁhitā throw some light on the subject and Manu's treatment in particular. The commentator Kulluka Bhatta explains the word ‘arbitrarily’ used by Manu above as “taxation against law” and the cause for the disaster is accordingly “the wrath of the people.”² No mention is made of the particular mode or modes of such a revolution. But it is more than probable that this is parallel to “no *taxation without representation*”, since the Brāhmanas, as the leaders of the people, were the makers of all laws, including those on taxation.”³ Further elucidation is set under the Principles of Taxation, forming a separate chapter.

Another commentator of the same book, Medhātithi, whose independence and originality of thought are quite conspicuous in many respects, had pointed out though in a different connection the futility of paying taxes when its object is not gained. His Hampden-like attitude is seen in the passage below—

“By seeking redress from an incompetent king, payment of the king's judicial dues (in the shape of taxes) becomes a waste of money.”⁴

Its implication is unmistakably clear, for the *stoppage of tax-giving* necessarily preludes armed rebellion and sub-

¹ Yājñavalkya, 380, p. 55.

² Kulluka's Commentary, p. 373. ³ Manu, VII, 391 ; Śānti Parva 77.

⁴ Mandlik's Ed. II, p. 760. Also quoted in Ghosal's Hist. of Hindu Pol. Theo. p. 241.

version of the state and the justification can be easily subsumed under Medhātithi's former reasoning and sanction, viz. "a desired object" in the interests of the people. There is hardly a more consistent and bold and at the same time logical view of taxation than that of Medhātithi in the whole range of Indian political literature. He has indeed put his finger on the very sore spot of the body-politic from which poison and death concretely arise.¹

In the Epic

The great Epic is equally emphatic against illegal and irresponsible taxation, and here its extreme radicalism looks for the only available remedy, that lies in the most drastic measure of combined resistance, sweeping revolution and ultimate execution of the unpopular despot. It has been already seen that the politics in the Epic is marked by a tendency to *indefinite popular absolutism* and its source is evidently the compact idea underlying political and social organisations. Taxation is apparently and practically the prime factor, on which the economic side of the pact is based and hence it is the most powerful expression of authority on both the sides of the contracting parties. Its abuse is keenly felt and glaringly noticed. So the Mahābhārata sounds the timely warning—

(a) "The king, who collects money according to his own will without consulting others about sacred law (on the subject), can never succeed in prospering for ever".²

¹ N. B. Both Kulluka and Medhātithi have been put here in order to connect them up with Manu whose Laws they have commented on ; their dates would be C. 900 A.D., while that of Manu is C. 200 B.C.

² See Ch. IV, Popular Authority ; Social Contract Theory above.

³ Śānti Parva, 92.

(b) "The king, who taxes excessively against law...only harms himself".¹

A more decidedly threatening tone is found in the extract given below, where the whole royal party (including perhaps a wrongly guided and determined cabinet) is the object of the attack—

"Terrible sin and destruction visit the king, even if the numerous royal supporters (officers) in combination break the law and reject advice (protest) and thus being bent on raising money extort it from the people".²

The very ultimate remedy, when all others have utterly failed, seems to be the taking up of arms against oppression by the people at large. A concentrated and united effort is indicated in the last recourse. The popular will must vindicate itself by drastically altering the whole system under which it suffers and is suppressed—

"The ruler, who, instead of protecting the people, extracts taxes by torturing them, should be killed by the combined body of the people as a cruel and ruinous shame of the royal house".³

In Seenlar Politics

Kauṭilya from within the vast Maurya Empire saw the evils of illegal and undue taxation, which, besides exciting

¹ Ibid, 71. ² Ibid, 91.

"Rājño yadā janapade vahavo rājapurushāḥ
Anāyēnopavarttante tadrājñāḥ kilviṣham mahat
Yadāyuktya nayantyarthan kamadarthavasena vā
Kṛipañām yāchamānānām tadrājño vaiśasaṁ mahat".
(Bengal Ed. p. 219).

³ Anuśāsana Parva, 61.

"Arakṣhitāraṁ harttāraṁ viloptāraṁ anāyakam
Taṁ vai rājakalim hanyuh prajāḥ sannahya nirghṛṇam"
(Translated in accordance with K. P. Singha's Bengali version).

popular wrath, impoverished the nation; hence it reacted on the state itself in the long run and brought about disaffection and disaster, and more than all these, consequent weakness and dwindling in general. He has laid down the broad economic principle that—

“An impoverished people are ever apprehensive of oppression and destruction (by over taxation etc.) and are therefore desirous of getting rid of their impoverishment or of waging war and of migrating elsewhere”.¹

On the king's side, it is advised—

“Hence no king should give room to such causes as would bring about impoverishment, greed and disaffection among his people”.²

Thus his analysis goes on step by step in showing how the causal connection is present in every element of action and reaction—

(a) “When a people are impoverished they become greedy; when they are greedy they become disaffected; when disaffected they voluntarily go to the side of the enemy or destroy their own master”.⁴

Again—

(b) “When the dwindling of the people is due to the want of gold and grain it is calamity fraught with danger to the whole of the kingdom”.⁵

In summing up it may be stated as Kauṭilya's general position with regard to the question of popular resistance to unsanctioned taxation that—

¹ Artha Śāstra, p. 342. “Kṣhīṇāḥ pīḍanocchedanabhayāt sadyassiddhim yuddham nishpatanamvā rochayante (S. Sastry's Text, p. 277).

² Ibid p. 342.

³ Ibid, p. 341.

“Kṣhīṇāḥ prakṛitayoh lovaṁ, luvdhā yānti virāgatām

Viraktāḥ jāntyamitraṁ vā, bhartāraṁ ghnanti vā svayam”.

⁴ Ibid, p. 342.

⁵ Ibid

(Sastry's Text p. 275).

"A greedy people are ever discontented and they yield themselves to the intrigues of the enemy" (for bringing down the state) and "a disaffected people rise against their master along with his enemy" (in order to do away with the very source of all illicit demands)".¹

The attitude of Śukra towards the problem of unwarranted and unauthorised imposition agrees with that of the Mahābhārata in substance as well as in language, but he does not seem to countenance the logical consequences of the idea in the Epic. Śukra holds that—

"The king is a thief in the form of a ruler, and an exploiter of the people's wealth, who does not listen to the counsels of ministers about things good and bad for him".²

And the Mahābhārata has pronounced the same verdict on the king in the case of his levying taxes in spite of remonstrances, and the king has been similarly called a thief.³ He does not deserve any payment. The popular attitude becomes explicit in Medhātithi as already noticed above.⁴ Śukra's view on the point is further elucidated in the following precept—

"His kingdom is destroyed by enemies, who has amassed wealth by forsaking morality (i.e. laws) and by oppressing his people".⁵

He is silent over the question of remedial measures against extortion and over-taxation and this is unlike his bold treatment of the evil of tyranny and oppression. Neither

¹ Ibid, p. 342.

² Śukra Niti II. 515-516, p. 87.

³ Āpad-dharma Parva, 39.

⁴ See Supra Section of Tyranny.

⁵ Śukra Niti, p. 139.

"Tyaktvā nitivalm sviyaprajāpīḍaṇato dhanam
Sañchitam yena tattasya sarājyaṁ śatrusādbhavet".
(Vidyāsagara's Text, p. 272).

is there any way open for connecting the two kinds of despotism, so as to bring them under his recommendation for deposition, except in the most general fashion.

The general moral advice of Kāmandaka on the subject of taxation is a mere warning against the king's own *covetousness*. He classifies this under the "five apprehensions" to the subjects, but he does not suggest any suitable remedy.¹ All the same it is an apprehension and is thus one of the sources of danger to the state. When the king himself becomes exacting, who is expected to take the side of the people? Thus the possibility of such an event was to be guarded against by all means.

Passive Resistance

A type of Passive Resistance against undue procedure and illegal taxation is seen in the practice of leaving the country, where such injustice happens, contrary to the expectation and wishes of the people and particularly of the traders. Being naturally wealthier than the common people, they choose to retire into the woods, probably beyond the jurisdiction of the king and his officers in order to avoid molestation and enforced payment.² Mr. Arabindo Ghose observes that "another more peaceful and more commonly exercised remedy was a threat of secession or exodus, which in most cases was sufficient to bring the delinquent ruler to reason".³ It is not merely a case of migrating into another state, but living free in the forest without paying any tax to anybody. This love of freedom meant great hardship and privation in many cases as will be seen in this account. The contagion as a matter of fact drew other people into the company of the passive resisters, and the support of sacred

¹ Niti Sāra, p. 61. ² Rājadharmānuśāsana Parva, 87.

³ A Def. of Ind. Cul. Arya, Oct., 1920, P. 179.

writing was not wanting, when there were definite pieces of advice to desert the unrighteous king and his kingdom already noticed in the section on royal high-handedness.¹

The Mahābhārata has the caution that—

“When the ‘gomins’ (the trading classes) are flouted, they leave the country and live in the forest. The king should therefore treat them well.....and tax them moderately”,² and also wish—“May not the cultivators, being oppressed, leave the kingdom”.³

This is illustrated fully in the description of the Gaṇḍatīṇḍu Jātaka “of the land ruled by an unrighteous king and plundered by his officers”. An extract from it is given below—

“Oppressed with taxes the inhabitants lived in the forest like the beasts with their wives and children. Where there was once a village, no village stood there any more. The men could not, for fear of the king’s people, live in their houses. So they surrounded their houses with hedges and went to the forest. In the day the king’s people plundered and at night the thieves”.⁴

In the ancient times the forest was to them like the continent of America sheltering those who fled from their native place for the sake of the freedom of conscience. Here is, in short, another “deserted village” full of that pathos for which Goldsmith is justly famous. The Jātaka has told the tale in its own primitive style, but there is in it all the elements of the natural love of freedom in face of helplessness under oppression.

¹ Supra, on High-handedness.

² Rājadharmānuśāsana Parva, 87. Nilakanṭha has given the meaning of the word ‘gomin’ as ‘vaiśya’. (Bombay Ed. P. 90). Cf. the English words “gombeen” and “gubbins” and the Sanskrit word grāmin.

³ Ibid, 89.

⁴ Fick’s Social Organisation, Dr. Maitra’s Translation. P. 121.

General View

Both in the North and in the South, the common attitude towards unworthy and unfit monarchs was one of unqualified condemnation. They never minced matters in this field, but considered government by such rulers as an intolerable weight on the nation and the country. It was certainly grounded on consensus of opinion, since it was expressed in a general way, leaving room for actual conditions. Tiruvalluvar pronounced that—

“The tyranny that yoketh itself to charlatans is the only burden under which the earth groaneth : there is none other beside”.¹

The Tamil sage was fully aware of the danger produced by such a state of affairs and by calling it a burden has shown the depth of his experience as well as clarity of thought and voiced a sentiment shared by all. The unbearable character of misrule is laid bare and its wretchedness indicated.

The Mahābhārata has put the same idea in a poetic garb and its implications are not different. First of all the *earth* is personified and then she is made to say,—

“That an unrighteous king should ever rule me—this I shall never be able to bear (tolerate) by any means”.²

The context shows that she was running away for the very fear of being under unworthy kings. It is only a figurative assertion of positive popular disfavour clothed in epic language. Such declarations were truly the indications of social temperature and pressure and signals for action, when the burden proved to be beyond toleration. And it was but natural to think of the removal of what

¹ Kural, P. 120.

² Rājadharmānuśāsana Parva, 53.

was generally felt as a burden by all. To this should be added the pithy summary of Mr. Arabindo Ghose that "there could be ordinarily little or no room in the ancient Indian system for autocratic freak or monarchical violence or oppression, much less for the savage cruelty and tyranny of power so common in the history of some other countries".¹

The radicalism of Hindu Sacred Law had its own procedure and ideal in respect of checks on the king. Note 4 in the Appendix gives the necessary details. The doctrines of Manu and the Mahābhārata stand on the same level with the teachings of the great revolutionary work *Vindiciae Contra Tyrannos*, though the topical division of the subject-matter is missed in the latter. Indian Chronology is unfortunately unable to show the precise historical effect produced by Manu and the Epic, as was the case of the *Vindiciae*. The Nalika and the Guillotine are of course the summit of such theories. They approve tyrannicide and preach the same views of popular sovereignty under conditions of unlawful oppression. The Doctrine of Passive Resistance, though typically Indian, may be set beside Calvin's Institutes.

¹ A Def. of Ind. Cul., Arya, Oct. 1920, P. 179.

CHAPTER VII

THE DIVINE RIGHT

Its Source and Application

In Hindu Political Theories from the earliest time down to the age of Śukra, "the Divine character of kingship" is recognised and declared in unmistakable terms, according to the view taken of the source of State authority. That to a certain extent it can be interpreted as the Divine Right of kings, once prevalent in the West, is a question not open to serious doubt. Different scholars have taken different views of the subject and their observations have thrown helpful light on the topic as a whole, leading to a searching examination of the underlying theory.

Sir Valentine Chirol, has touched upon this topic in his "Indian Unrest" and has quoted passages from the Mahābhārata to indicate only "the sentiment of reverence for the Crown wide-spread and deep-rooted among all races and creeds in India"¹. He has pointed to a line of thought, which is essentially Hindu in character, but nothing more has been said by him, the reader being left to form his own judgment. Professor Hopkins has merely grazed over the surface by stating that the Indian "kings were taught that they were themselves the vicegerents of the gods and embodied divinity"². Dr. U. Ghosal in his very useful volume has laid bare the two poles of thought and given his own conclusion. Dr. N. N. Law and Mr. B. K. Sarkar, Professors P. N. Banerjee and D. R. Bhandarkar have discussed and hit upon the right point in elucidating "the divine origin and character" of royalty, in contrast to royal personality, as the true interpretation of the

¹ Indian Unrest, pp. 331, 359.

² Ethics of India, p. 236

problem presented by the theory in question. But Mr. Jayaswal's is the most original exposition, which deserves careful attention¹. The issue has still to be worked out in details, so as to disclose the difference between mere theory and real practice. The theoretical side comes from the sacred books and the practical side is denoted by its acceptance by the people. Again there are reasons for the rise of a theory and these require careful treatment in order that the theory itself may be clear in its true significance. An attempt is made in this chapter to trace this theory to its sources and to reveal its meaning and application.* It ought to be remembered in this connection that as in the West and so in the East "the theory (itself) belongs to an age, when not only religion, but theology and politics were inextricably mingled",² and effort was made to base political authority on some transcendental grounds.

It is evident from historical records that "the divinity that doth hedge a king"³ was more or less generally accepted as a permanent factor in various degrees in all the anti-popular theories of kingship, in the way of affording an explanation for monarchical authority. It has already been seen that political speculation had somehow to find a basis for the exercise of the power wielded by the king as the head of the state, which demanded obedience from the people. So far as monarchy is concerned, the right of the king to popular obedience and their tacit consent to his rule were founded on three kinds of initial assumptions

¹ Manu and Yājñavalkya, pp. 97 ff and *Infra*, Sec. on the source of the idea.

* *N.B.* The remarks of different authorities are given in the note on this chapter with a view to the many implications of the theory under review. See Appendix, Note 5. II.

² Figgis, *Divine Right of Kings*, p. 13.

³ *Hamlet*, IV. 5.

and their natural consequences, and these go to clothe the king with divinity and to make him either *partially* or *temporarily* divine. Hence three different conceptions of divinity, yielding as it were three aspects of the same quality, account for the idea, which culminated in making the king directly a god on earth. These have already been examined in a previous chapter¹ under the heading of Royal Authority, as divinity by (a) *origin* by (b) *function* and by (c) *special creative will of God*.

A careful analysis will go to establish that the ascription of divinity is due to :—(a) Participation of nature, which contributes a part of itself ; the result is that divine nature is predicated of the king who shares it. (b) Functional equivalence, when divine duties or similar ones are done by the king. It is like two parallel series of functions, permanent or temporary, going on two planes, the one in the region of the gods, the other on the earth. (c) Special creation by God. This assumes a special character and therefore it is certainly super-human, i.e. divine. (d) Entry of the divine element into human affairs through the person of the king, thus making him a part of the divine. (e) Good works done in previous birth securing temporary stay in heaven, where the nature of beings is supposed to become quasi-divine, and kings are such beings born on earth. All these concepts have been dealt with fully in proper places in the foregoing chapters on the Theories of Kingship and of the State and of Political Authority.

The mixture of different types of thought such as metaphysical as in (a) and (c), theological as in (d) and (e) and social as in (b), and their introduction into politics strengthened the monarchical ideas of the times. For them "to strengthen the monarchy was to

¹ Supra, Ch. III on Political Authority.

strengthen the state" as Gooch¹ says under a different context, but with reference to similar circumstances. The net result was that a number of religious appellations were applied to the king according to the degrees of the orthodoxy of political writers, and the adjectives themselves served as so many indications of the authority and position held by the king. The epithets vary considerably in nature in the different periods, but in Nārada² the climax was reached and the highest possible divine quality was attributed to the monarch. These epithets are arranged according to their character.

Qualities approaching Divinity

(a) *The idea of identity*—On the principle of identifying the king with one or other of the gods the following extracts show the king's divine nature—

1. In the R̥ig Veda in a hymn by Trasadasyu, the king is described as a *demi-god*, an associate of the gods in heaven and sometimes completely identified with them—

"The gods associate me with the acts of (god) Varuṇa.....I am Indra, I am Varuṇa, I am those two in greatness".³ This is the earliest available notice of the king's position, where the king speaks of himself and is conscious of his status amongst men.

2. The Mahābhārata also identified the king with the *chief god* Indra thus, "In the sacred Laws the king is declared to be the god Indra".⁴

3. Somadeva Surī, though a Jain himself, has called the king—"A visible deity on the earth" and "an intermediate guardian of the quarters...and the best of them".⁵

¹ P. 20, Political Thought from Bacon to Halifax, p. 20.

² C. 500 A. D.

³ R̥ig Veda, IV. 42.

⁴ Śānti Parva, 67.

⁵ Nīti-Vākyaṃṛtaṃ, p. 66.

4. Chāṇakya, who is the same person as Kauṭilya, the author of the famous "Arthaśāstra", declared in the "Chāṇakya Sūtras", (i. e. aphorisms by Chāṇakya) that—"The king is the chief god"¹, but no emphasis on this thought occurs in his greater and cyclopaedic work on the science of politics.

(b) *The idea of equality or similarity.* A little modification gives the principle of equality with or similarity to the gods on the strength of which the king is considered divine. Illustrative quotations are given below—

1. The Epic in a general estimate evidently made "all kings equal to gods".²

2. Again the king is termed to be "like an eternal god" in the Epic—

"Even the gods do not slight the king of virtuous desire who is like an eternal god".³

3. Similarly it brought in a little change and made the king *equal to Dharma*, i.e. god of righteousness—

"The sages having seen both the worlds created the king Dharma (virtue) personified".⁴

4. The Rāmāyaṇa has it in the abstract way ; thus the king "is the right and the truth".⁵

(c) *The idea of incarnation.*—Incarnation of divinity in the king's person is a somewhat different line of thought yielding practically the same result as the above. The highly suggestive lines are given below.

1. Manu, the greatest of the law-givers, has called the king "a deity in human form" and this again in reference to an immature monarch—

"The king even if he is an infant, should not be despised from the idea that he is merely a man, for he lives a great deity in *human form*".⁶

¹ Sūtra, 372.

² Śānti Parva, 69.

³ Śānti Parva, 65.

⁴ Śānti Parva, 90. ⁵ Rāmāyaṇa, II, LXVII. ⁶ Manu Saṁhitā, VII. 8.

Similarly the Mahābhārata designates the king in the same terms showing that the source of the two extracts was the same—

“The king must not be despised from the idea that he is a mere mortal, since he is a great deity in *human form*”,¹

2. The king is spoken of in the Epic as a “man-god” much in the same way as above—

“Since that time there has been no difference between a deva (god) and a *nara-deva* (man-god) : between a god and a human god ; between a god and a king”.²

3. The Bhāgavata Purāṇa has called monarchs “the very embodiments (likenesses) of the gods.”³

4. According to Devala—

“The king is a god in visible form.”⁴

(d) *The idea of qualified or conditional divinity*—Some mixture of rational thought brought about the idea of qualified or conditional divinity. It is conditional, unlike theological dogma, and is elastic enough to be used in favour of popular authority.

1. Śukra, with his Aristotelian insight holds that—

“The king who is virtuous is a *part of the gods* : who is otherwise is a part of the demons.”⁵

2. Mitra Miśra quoting Nārada in the same strain lays down that—

“The king by virtue of his brightness and purity is like the *Being without beginning and without end*, provided that he does not stray from the path of Dharma, (i. e. righteousness).⁶

¹ Śānti Parva, 68.

² Ibid, 59. Quoted by Prof. Bhandarkar. Carmichael Lectures, p. 126.

³ Bhāgavata Purāṇa, VII. 8.

⁴ Vide Hemādri, Chaturvargachintāmani, Prāyaścitta Khaṇḍam, pp. 76. 77. ⁵ Śukra Niti, p. 12. ⁶ Rājāniti Prakāśa, pp. 21, 23.

(e) *The idea of Divine Right*—As most strongly supported and dogmatically upheld, it is found in Nārada. It is perhaps its very climax from the doctrinaire point of view. Nārada's own doctrine in its complete expansion furnishes the closest approach to the western theory of "Divine Right", and will compare well with King James's contention. The sage legislator begins by asking—

"Who will not obey the command of the person that quickly does, sees, hears, knows, causes to shine and protects everything, since he is born out of the essences of the deities? The king's command should always be obeyed otherwise death shall follow. What the king says, be it right or wrong, is the law (dharma) of the suitors. The king lives on this earth like visible Indra; the people cannot prosper by violating his orders. Whatever a king does is right; that is the settled rule, because the protection of the world is entrusted to him, and on account of his majesty and benignity towards all creatures. As a husband, though worthless, must be always worshipped by his wives, in the same way the king though feeble should be worshipped by his subjects. Through fear of the king's command the people do not swerve from their duties. The subjects are purchased by the king's austerities (penances); he is their master, therefore they should submit to his command; their pursuits of agriculture, pasturage and the like all depend upon the king."¹

¹ Nārada, S. B. E., XXXIII, pp. 217-221, ff. Also cited in Dr Ghosal's *Hindu Pol. Theories*, p. 222. Cf. Mainwaring, who equates royal position with that of the husband, father, master, and creator. (*Divine Right*, p. 150).

N. B. Nārada's doctrine is placed last because of its being the culmination of the several approaches to this kind of thought. Chronologically he ought to go with the writers of the *Dharmaśāstras* of later date.

Probable Source of the Idea.

The processes of deification have come down through a number of stages and probably varying circumstances, and the extracts immediately preceding lay bare the gradual depth and intensity of the qualifying epithets. The source, so far as it can be traced historically, appears to be in the Brahmanic theory of sacrifice, (whether at coronation or otherwise), which, besides keeping up its religious and social characters, forced its way into the political phases of the Aryan life of those days.¹ The practice of offering sacrifices was one of the chief customs, which the Aryans brought with them and on the Indian soil its highly developed form is noticed in the pages of the Vedic literature as "the very spirit of the age."² Mr. Gooch's significant remark—that "the tendency of mankind to invest its rulers with divine attributes is as old as history itself",³—is corroborated equally under Indian conditions. Somehow or other this attitude towards personal royal authority, as distinct from corporate power, rises to the surface in course of a long search after the foundations of political authority, though it may be faint at the start and far short of a worked-out theory.

Hints to some type of superstitiously, super-natural power, connected with the rise of kingship as a political necessity of the earlier times, are not wanting in the history of mankind, but they may not be all similar, though certainly parallel. Herbert Spencer's "medicine-man" in primitive society⁴ and Sir J. Fraser's "sympathetic magic" supplying the medium to kingship⁵ are instances of the

¹ Vide N. N. Law's *Aspects of Ancient Indian Polity*, p. 142-143.

² McDonnell's *History of Sanskrit Literature*, p. 31.

³ *Political Thought from Bacon to Halifax*, p. 10.

⁴ *Principles of Sociology*, 11, p. 363.

⁵ *Golden Bough*, Pt. 1. Vol. 1. p. 50-54.

crudest form of naive ascription of super-human qualities to persons pushing their way above the ordinary members in a social group. The same phenomenon in different application is observable in India in the right of sacrifice, which is supposed to be a mysterious process of practical religion. Its social character in those days was of the highest value and it was the nucleus of many social activities under the patronage of religion, but its religious potency in some very remote time was in all probability the means of conveying and concentrating the supposed super-natural power. Dr. Das Gupta quoting Haug says—

“The sacrifice was believed to have existed from eternity like the Vedas. The performance of the rituals invariably produced certain magical results by virtue of which the object desired by the sacrificer was fulfilled in due course like the fulfilment of a natural law in the physical world. It exists, as Haug says, “as an invisible thing at all times and is like the latent power of electricity in an electrifying machine, requiring only the operation of a suitable apparatus in order to be elicited”.....Sacrifice is thus regarded as possessing a mystical potency superior even to the gods, who, it is sometimes stated, attained to their divine rank by means of sacrifice.”¹

The three elaborate sacrifices, namely, the Rājasūya, the Vājapeya and the Aśvamedha, are all more or less essentially politico-religious in character, having the royal coronation and the royal consecration ceremonies among their many items of procedure, and were performed by great and powerful monarchs. Their expositions illustrate the nature of kingship, which clearly bear the stamp of Vedic influence. The Vedic tendency to identify kings

¹ Hist. of Ind. Phil., p. 22.

with the gods becomes the Brahmanic transmutation of royal character through the mystery of the sacrifice. The Atharva Veda, in imitation of iii. 38, 4 of the R̥g Veda, where the king of the gods, Indra, is extolled, declares 'in its ritualistic portion in connection with the consecration of the king, that "Him approaching all waited upon, clothing himself with fortune, he goes about with brightness.....great is the name of the virile Asura, having all forms he approaches immortal things."¹ This evidently is only exaggeration of the nature and position of the king by a simple and religious people, when compared with the words of later juristic sycophancy, notwithstanding what the commentators may be inclined to say in their own way.

But the immediately post-vedic literature has a slightly different position on this point, while its positive religious character makes its declarations categorically assertive. Thus the Śatapatha Brāhmaṇa² repeatedly identifies the royal sacrificer with the chief god Indra and later on with the god of creation, Prajāpati³. In 111. 1. 1. 8; and in 111. 2. 1. 7 of this work it is said that "He, who is consecrated truly, draws near unto the gods and becomes one of the deities", also "He who is consecrated indeed becomes both Viṣṇu (the god of preservation) and a sacrificer, for when he is consecrated he is Viṣṇu and when he sacrifices he is the sacrificer", while in V. 4. 3. 4, it is roundly stated that "The sacrificer is Indra, (the king of the gods).....for the twofold reason, namely because he is a Kshatriya and because he is a sacrificer". The word 'kshatriya' is here equivalent to the twice-born ruling caste having the right to sacrifice. The typical sacrificial proclamation stands like this—

¹ Atharva Veda, IV, 8.

² V. 1. 2. 3. 4; 1. 4. 2; 5. 2. 3,

³ V. 2. 1. 24; 3. 4. 23.

"I consecrate thee N. N. with the supreme rulership of Brihaspati ! Therewith he mentions the (sacrificer's) name : he (the priest) thus makes him attain to the fellowship of Brihaspati and to co-existence in this world. He then says "All-ruler is this N. N. ! All-ruler is this N. N. !" Him thus indicated, he thereby indicates to the gods. "Of mighty power is he who is consecrated ; he has become one of yours ; protect him"¹

In the Taittiriya Samhitā² as in the Śatapatha Brāhmaṇa, the same identification with the gods is illustrated in the words of the sacrificing priest addressed to the king in "the adoration" part of the ceremony—"Thou art (the god) Mitra ! Thou art (the god) Varuṇa !" But this work moreover indicates the general deifying effect of a sacrifice performed by any one in the extract here—"So him becoming (the god) Indra, his fellows recognise as superior ; he becomes the best of his fellows".³

Jayaswal's Interpretation

Mr. Jayaswal has given a different and historically significant account of the rise of the Divine Theory and also traced it back to the coronation ritual. He has shown "that the code of Sumati had to support a usurper, a revolutionary dynasty. To preach that he was not to be treated lightly or insulted (Manu, VII, 5), he had to invent a divine theory. The author of the code of Manu went, as every Hindu lawyer did when he wanted to re-examine the legal position of the king, to the ritual of coronation,

¹ S. B. E. Vol. XII. p. 39. See Laws Aspects of Anc. Ind. Pol., p. 143.

² I. 8. 16.

³ II. 2. 11. 6 ; H.O.S. Vol. XVIII. 169.

the very basis of Hindu kingship. He, by a little distortion, converted the gods invoked to help the new king in his new situation into manufacturers of a new divinity—the king.”¹ “It is a kind of fatalism in politics”² in the words of Mr. Jayaswal, connected with the process of equating religious merit with kingship, as already discussed in Chapter II.

The sacerdotal attitude of the time undoubtedly left a lasting impress on its ideal politics apart from practice in its constitutional history, and the precipitate of the unavoidable and invariable inter-action between religion and politics resulted in the canonical doctrine of the divine character of kingship, of which Nārada was obviously the strongest and the most forward exponent. His doctrine resembles so much the Jacobite definition of the Divine Right given by Mr. Gooch that it is cited below—

“Nowhere is the Divine Right of kings—the doctrine, that is that monarchy is divinely ordained, that hereditary right is indefeasable, that kings are accountable to God alone, and that resistance to a lawful king is sin—more concisely formulated or defended with more unfaltering conviction than in the pages of the British Solomon”.³

In theory at least the right of the king in the Indian political literature of the orthodox school attains an equally absolute position like that of “The True law of Free Monarchies” by King James. A “free monarchy” according to him was “a monarchy free to do what it pleased”.*

¹ Manu and Yājñavalkya, pp. 98, 99 also p. 96.

² Ibid, p. 101. Vide Chap. III and Appendix 5.

³ Political Thought from Bacon to Halifax, p. 14.

* N. B. Another source, of the idea of the Divine Right rising from the process of deification may be found in the probable Brahmana-

Practical Application.

The crux of the question, which, it is not unlikely, has often been missed, is brought to the front by the practical administrative operation of the doctrine. The rejection by the people of such a theory to be the principle of any Government, under which they should be called upon to

Kshatriya competition of early Indian History, keeping in view the fact that the consolidation of political power meant the synthesis of the authorities of the Brāhmaṇas and of the Kshatriyas in their own fields. A suggestion may be made on the lines of Figgis, who has tried to explain the origin of the Divine Right in English History. The same type of conditions might have prevailed in India yielding similar results, although such analogy cannot have any strict logical basis. The most that can be said safely is that both are parallel cases having some close resemblances. "The Papalist writers will be found developing a theory of sovereignty for their lord, the Pope, while this is met by the counter contention of the Imperialist that not the Pope but the Emperor is truly sovereign, and that he is so by God's direct appointment. Here clearly are the main elements of the later doctrine". (Divine Right, p. 15).

If this is so, may it not be suggested equally that the Brāhmaṇical claim to divinity and authority was really the cause in some very remote age of investing the Kshatriya ruler with the same quality and power? It is a well-known fact that the Brāhmaṇas possessed unquestioned political ascendancy as Dr. Roy Chowdhury has pointed out. "His (the king's) power was checked in the first place by the Brāhmaṇas. We have seen that the most powerful sovereigns, even those who were consecrated with pūrṇābhisheka, had to descend from the throne and make obeisance to the Brāhmaṇas, who formed the higher educated community of those days. We learn from the Aitareya Brāhmaṇa, VII. 27 and Kauṭilya's Artha Śāstra, p. 11, that even a powerful king like Janamejaya was humbled by the Brāhmaṇas", (Pol. Hist. of Anc. Ind., p. 91). Indeed the Brāhmaṇas held away over the whole realm indirectly and their authority was unchallenged. To counter-act this the ruler was also clothed with those qualities, which were asserted of the Brāhmaṇas and on which their authority was based. Thus the qualities ascribed to the king in the doctrine of the divine right are exactly those which belonged to the Brāhmaṇas by tradition. Careful study of the law books and the Epic would leave no doubt on the point. These parallel ascriptions of similar qualities need some historical explanation which is unfortunately untraceable. Most probably after

live from day to day, was similar in every country, varying perhaps only in net results. If it is not the theory itself, which determines the issue, its application is the test of the political character of the time and makes in fact all the difference. Yet kings are known to have fondly entertained too high and exaggerated an idea of their office and their persons against popular rights and demands. James in England and Veṇa in India are instances to the point and both brought their own ideas to such a pitch, as to be the cause of their later haughty and irresponsible conduct towards the people. Their speeches, which are unusually similar considering the difference of time and place, are samples of a doctrine, which is safe only in the writings of political theorists, but which produces the most baneful result within the hearing of the people.

(a) King Vena's speech to the Brāhmaṇa leaders of the people—

“O sages, you are all very foolish for you are designating wrong as right. I am your lord and giver of food, but you are going to worship another like a paramour ; you are stupid for you are neglecting the very god in the shape of a man. Therefore there can be no good for you here or hereafter. Who is that person of the sacrifices whom you are honouring so much ? Just as adulteresses throw off their husbands

these qualities had been settled by long use on both sides and regarded to be quite in order, the Brāhmaṇa-Kshatriya unity was attempted as a political necessity. (see Appendix, Note on Theory of Constitution). The following lines of Hopkins are illuminating.

Her (India's) priests thought that they were gods on earth ; her kings were taught that they were themselves vicegerents of the gods and embodied divinity ; and her philosophers maintained that everybody was essentially divine, but all this made no difference in the theory of what a good citizen, be he priest, king, philosopher or common man, should be and do", (Ethics of Ind. p. 236).

and follow their lovers, you are similarly adoring him. Brahṁā, Viṣṇu, Śiva, Indra,...and all other gods reside in the body of the king. So the king is the essence of all the gods. Consequently O Twice-born ones! you ought to give up your waywardness and dedicate all your sacrifices to me and collect materials for serving me alone. None else shall be allowed to be given the first place and portion.¹ Nobody shall be permitted to perform any sacrifice or kindle the sacred fire or make gifts, for I am the lord of sacrifices and the sole master (of all). Who else can enjoy your offerings besides me? Who else is there superior to me so as to be adored (by the people)? O Brāhmaṇas! consider your own position and then obey my commands. You have nothing else in the way of giving or consecrating or sacrificing. Just as serving the husband is the highest duty of womanhood, so yours is to carry out my orders.”²

(b) King James' speech to Parliament, 1609—

“Kings are justly called gods, for they exercise a manner of resemblance of divine power upon earth. For if you will consider the attributes of God, you shall see how they all agree in the person of a king. God hath power to create or destroy, make or unmake at His pleasure, and to be accountable to none. And the like power have kings. They make and unmake their subjects, they have power of raising up and casting down—judges over all their subjects and in all cases, yet accountable to none but God. They have power to exalt low things and abase high things and to make of their subjects like men at chess. (In 1610)....Kings are not only God's lieutenants upon earth, but even by

¹ Bhāgavata Purāṇa, p. 213.

² Viṣṇu Purāṇa, p. 48.

God himself they are called gods. (In 1616). As it is atheism and blasphemy to dispute what God can do, so it is presumption and high contempt in a subject to dispute what a king can do or to say that the king cannot do this or that.”¹

The spirit of both the speeches is identical, ending in dire consequences. And as James II was banished from England by the people for acting on the assumptions of the doctrine, the Indian king Veṇa fared no better. In fact Veṇa was killed by the Brāhmaṇas, who represented the popular cause. In no case was the pretension to divine right, though made, practically allowed to stand as a settled fact. The people's rights were preserved against any aggression by the king, both cases being alike in fact but chronologically apart by a number of centuries. WilloUGHBY's careless generalisation, that “in all the vast Asiatic monarchies of early days the rulers claimed a divine right, to control the affairs of the state and this was submitted to by the people with but little question”,² needs to be modified to a very great extent both from the historical and the theoretical view-points.

In justice to Indian theorists it must be said that the tendency to absolute deification of the monarch was not allowed to pass unchallenged. Early in the Epic age the Mahābhārata assured that “the king of virtuous desire, who is like an eternal god” is never slighted, not even by the gods.³ Even Nārada, as quoted by Mitra Miśra, saw the significance of “brightness and purity” in a king, in order that he might resemble “the Being without beginning and without end”, and prescribed the “path of dharma”

¹ See Divine Right, p. 142. Pol. Thought from Bacon to Halifax, pp. 14-15. Carmichael Lectures, p. 130.

² Nature of the State, pp. 42-43.

³ Supra, Sec. on Divine Qualities.

(righteousness) for such a position.¹ But Śukra supplied the positive popular vindication in times of need by asserting a bad king to be "the part of the demons."² The significant qualifications—"virtuous desire", "brightness and purity" and "virtuous"—are all so many limitations of nearly absolute application. They reveal not so much the apotheosis of the political office, as the promotion to divine status and honour of the good man on account of his goodness. The emphasis is always on the virtuous qualities of the ruler, and he is esteemed because of these and raised to the position of the gods. It is, therefore, virtue that is really equated with divinity and that is again conditional in every case. The famous Kural supports this great political ideal by saying—

"Behold the prince who administereth impartial justice and protecteth his subjects ; he shall be called a god among men".³

The final conclusion of Hindu speculation cannot be better stated than in the words of the Mahābhārata that "one becomes a king for acting in the interests of righteousness and not for conducting himself capriciously".⁴ Medhātithi the famous commentator of Manu, has explained away all the claims to royal divinity "as mere words having no force of law—mere arthavāda (eulogistic exaggeration) without real substance"⁵ according to Mr. Jayaswal. The other side of the question involving the right of perfect arbitrariness on the part of the king was equally unconstitutional in the eyes of the Hindu politicians as well as of the commentators of sacred law. Mr. Jayaswal has made the cutting remark that "both

¹ Vide Supra, Sec. on Divine Qualities.

² Ibid.

³ Kural, p. 84, Aiyer's Trans.

⁴ Śānti Parva, Sec. 90, 81, 4 ; Studies in Hindn Pol. Thought p. 57.

⁵ Manu and Yājñavalkya, p. 97.

jurists and political scientists rejected this trick" (of the Divine right).¹

Note 5 in the Appendix supplies the opinions of authorities and a short analysis of the religious sources of the doctrine.

CHAPTER VIII

THEORY OF STRUCTURE AND CONSTITUTION

Analysis of the State

Its Seven Limbs

The state is conceived of in Hindu politics as "*seven-limbed*" and as such it forms the concrete basis of sovereignty. In fact the sovereign power of the state resides in these limbs in the sense of functioning in and through them. Taxation, punishment, defence, &c. are only functions represented in organised departments which make government possible. According to the Mahābhārata in its analytic treatment, "Each of the seven elements with majesty, energy and counsel conjointly enjoys the state."² It is only another way of expressing the fact of the operation of the supreme political authority decentralised for special purposes, into spheres of special application, and when the whole organisation is viewed from this stand-point, it is seen to consist of the seven limbs or elements spoken of above, making a highly complex unity, which is focussed in sovereignty. This is technically called the "*saptāṅga*" (seven-limbs) theory of Hindu politics, and it is commonly accepted as the

¹ Ibid, p. 99.

² Mokshadharma Parva, 321.

standard by all the political schools, canonical as well as secular. Under analysis these elements are found to be—

- | | |
|--------------------------------|-----------------------|
| (1) Svāmī (Sovereign) | (2) Amātya (ministry) |
| (3) Kosha (treasury) | (4) Vala (army) |
| (5) Rāshṭra (territory) | (6) Durga (fort) |
| (7) Mitra (ally). ¹ | |

Of these a few alternatives are given in certain works, such as "*pura*" (city) for "*Durga*" (fort), and "*Danḍa*" (force, punishment) for "*vala*" (army). The explanation is that all ancient cities, being mainly established at protected places, could equally serve for forts, and "*danḍa*" is used as a general term for the means of forcing or restraining or punishing those that needed coercion, either in intra-state or extra-state affairs.² Yājñavalkya has "subjects" for "*rāshṭra*" (territory), which naturally includes the people as a whole.³ In fact territory without people would be useless and meaningless.

Kulluka Bhāṭṭa has supplied the meanings of the two peculiar terms, *pura* and *danḍa*. He has explained *pura* as "a fortified town specially constructed by the king to live in,"⁴ and *danḍa* as "the four-fold army made up of elephants, chariots, cavalry and infantry."⁵ But it should also be noted that *danḍa* literally means punishment and thus it may include the police, armed or otherwise. M. N. Dutta in his translation of Yājñavalkya has done the words in the same way.⁶

The formal number *seven* of the commonly accepted elements of the state, has also been augmented or reduced

¹ Yājñavalkya, 353, Vishṇu, iii, 33 ; Manu IX, 294 ; Śānti Parva, 57, 69. 321 ; Kauṭilya Artha Śāstra, p. 319, 321 ; Kāmandaka, Nīti Sāra, p. 30, 82. Śukra N.ti, p. 11, 262 ;

² Manu, IX, 294 ; and Yājñavalkya, 353.

⁴ Commentary on Manu's Laws, p. 601.

⁶ Trans. of Yājñavalkya Saṁhitā, p. 57.

³ Ibid.

⁵ Ibid, p. 601.

by political writers, according to the intrinsic worth of the elements themselves. The Mahābhārata expands it to *ten* by adding the factors of majesty, energy and policy¹ and also reduces it to *five* essentials by deducting the sovereign and the ally.² The Epic does not seem to be quite satisfactory here. Neither its addition, nor its subtraction, advances the main theory in any way. It is Kauṭilya's treatment that is thoroughly scientific and accurate in analysis, though the Epic gives rare and important glimpses of pure radicalism, particularly noticed in this connection. Kauṭilya has put one more very natural element, viz. the enemy, to be considered together with the seven limbs, but he does not actually include it in the group. His analysis keeps only two ultimate elements—the king and the kingdom—which are called *primary*³, and the five middle ones are left out as *secondary*⁴. He has also a rough division of the "elements of sovereignty" into the "animate" and the "inanimate."⁵

The real difference between the Mahabharata and the Artha Śāstra emerges out in clear relief—so far as can be gathered from the fact that the Epic explicitly refers in this context to a kingless society and the Artha Śāstra reflects faithfully the historical Maurya Empire—to be that between self-contained republicanism and fully aggressive imperialism. Obviously to the former the ruling head is of no importance, while to the latter he is the very centre of the state as the principal primary element. So here are the two poles of irreducible minimum of constituents forming the state, the one emphasising its popular basis, the other the importance of the royal office. Kāmandaka combines both views, first by separating the five "principal

¹ Mokshadharma Parva, p. 521.

² Śānti Parva, p. 59.

⁴ Ibid.

³ Artha Śāstra, p. 395.

⁵ Ibid. p. 424.

constituents" and then by adding to them the sovereign and the ally to make up the total of seven.¹

[Bṛihaspati increases the number of the factors to *eighteen* at the widest calculation from an inclusive view of all kinds of state relations and activities. To the group of six, according to him, his additions are chiefly the enemy, the friend and the neutral, making a total of nine², due to the larger considerations of, what Kauṭilya terms, the "circle of states."³ Its bearing on the seven elements of the state for internal administration is slight and unimportant. Obviously Brihaspati is thinking of the circle of states.]

The terminology used in this respect shows high technique in the political science of the day. The word "aṅga", "varga", "prakṛiti" and "tīrtha"⁴ all signifying the categories, elements, factors or constituents of the state, are technical in the most complex sense involving metaphors from other sciences. They will stand clearly elucidated in the treatment of the nature of the state. Of these the words *aṅga* and *prakṛiti* are used most in political language. But each of the four terms suggests different ideas of the composition of the state organisation.

Other metaphors occurring in the same context are found in the phrases descriptive of the elements in general. They also give an insight into the structure of the state. The canonical phrase as seen above, is simply "*sapt-aṅga*", i. e. the seven limbs, already enumerated. The Mahābhārata has only a plain qualifying phrase for it, viz. "concerned with the state" and nothing more.⁵ Kauṭilya

¹ Nīti Sāra, p. 82.

² Bṛihaspati Sūtra, p. 16.

³ Artha Śāstra, p. 323—The doctrine of the circle of states being connected essentially with warfare between different kingdoms is purposely left out here. See Indra, Chap. XVII. Law, Inter-State Relations, p. 25.

⁴ Śānti Parva, 57, 59 ; p. 319 ; Artha Śāstra, p. 319 ; Nīti Sāra, p. 137.

Bṛihaspati Sūtra, p. 16.

⁵ Śānti Parva, 57.

speaks of the "elements of sovereignty"¹ and Kāmandaka makes use of the "constituents of Government".² Śukra has the "engine of sovereignty" for the whole.³

Doctrine of Energism

When properly explained all the seven elements are only so many political categories standing for separate functions such as :—

- (1) Sovereign—Controlling centre (2) Ministry—Consulting medium (3) Territory—Medium of activity (4) Treasury—Money power (5) Army—Man power (6) Fort—Contingent defence (7) Ally—Aiding centres.

This scheme illustrates the Doctrine of *S'akti* (Élan) or Energism, i. e. self-assertion of the state. The Mahābhārata expounds that "Energism is the root of political science."⁴ Thus the whole state may be expressed in terms of energy seen in all its activities, e. g. conquest (externally), taxation, i.e. treasure, finance, punishment, i. e. authority (internally).⁵ This is the "*affirmative*" or "*substantiation*", which keeps the state alive through the "powers of deliberation, of arms, of finance" &c.⁶ In the language of Hegel these are "the essential moments of its (state's) existence".⁷ Thus it is that the state acts through its focus, the king or the president, who is necessarily said to be "the creator of *kala* (time or age) and the promoter of *dharma* (ideal of culture) and the originator of *good and evil*".⁸ Professor B. K. Sarkar remarks in this connection that "the state is neces-

¹ Artha Śāstra, p. 319.

² Śukra-Nīti, p. 11.

³ Apaddharma Parva, p. 130.

⁴ Bosanquet's Philosophical Theory of the State, p. 231.

⁵ Śānti Parva, pp. 69, 90, 91 and Śukra Nīti, p. 259.

⁶ Nīti Sāra, p. 30.

⁷ Śānti Parva, p. 58.

⁸ Ibid, 130.

sarily.....the chief dynamo of social engineering.¹ But time gradually narrowed down this doctrine and in Kāmandaka,² “prabhu-śakti or “prabhāva”—the individualistic power of mastership—takes the place of sovereignty, something like the *majestas* of Bodin, instead of a more general expression of state authority and power. He goes so far as to alter the time-honoured and classic definition of the king, viz. “Rājan” from the root “rañj” to please—he who pleases the people,³ to “a king is worthy of the name *Rājan* if only he possesses regal *prowess*”, with which to rule,⁴ for “by the *substantiation* of his *prowess* a king attains the highest pitch of prosperity”.⁵ It is worth mentioning that Kauṭilya recognises sovereignty or sovereign power to reside corporately in a clan, i. e. in group life.⁶ The abstract sovereign power, or śakti, is but the concentrated totality of the diffuse and expansive strength of society, already pointed out with reference to the nature of kingship and the origin of the state.⁷

Even if the earliest stage is taken into account the Vedic elements of the state, so far as they can be gleaned from the Ṛig and the Atharva Vedas, are the *King*, the *Council* and the *Assembly*, although references to the formal political categories are profusely found in concrete shapes, as *forts*, *armies*, *allies*, *tribute* and *lord*. The truth is that the political elements did not then undergo that process of differentiation and integration, out of which all the present-day institutions have grown stage by stage.⁸

¹ Pol. Theo. & Inst. of Hindus, p. 174.

² Niti Sāra, p. 192. See Ch. 1 p. 15. Also, Nitivākyaṃṛitaṃ and the Mahābhārata cited in Ch. 1. p. 15 ; Vide ch. X as well.

³ Rājadharmānuśāsana Parva, 59 ; See Chap. I & IV. pp. 27, 99, See Mr. Jayaswal's derivation which is parallel to Kāmandaka's.

⁴ Niti Sāra, p. 84.

⁵ Ibid, p. 84.

⁶ Artha Śāstra, p. 40.

⁷ See Supra Chaps, I and II.

⁸ Cf. Spencer's Sociology, Vol. II. Pt. V. Ch. 2-4.

Professor Basu has drawn a significant parallel between the East and the West and remarked on the lines of Freeman's "Comparative Politics" that "in all the three European branches of the Aryan race the original political elements were the king, the council and the assembly".¹ This makes good comparison with Kauṭilya's tendency to reduce the elements of the state to the minimum of two, already alluded to in this section.

Nature of the State.

Speculation of various types engaged the attention of political thinkers in ancient India in order to show as clearly as possible the structural nature of the state, as much as the many theories about it. The Indian comparisons are surprisingly similar and bear the closest parallelism to the Western ones from John of Salisbury down to Herbert Spencer.² Both the Eastern and the Western attempts may be said to have produced little effect on the political theories themselves, although from the social view of the question their expositions have to a certain extent explained, and that again only partially, the highly complex nature of society as a whole. But it must after all be remembered that society is "*spiritual*"³ as pointed out by Kāmandaka and "*super-organic*",⁴ as characterised by Spencer, and cannot therefore be fully explained simply by metaphors and similitudes. They may at best help the understanding of the social structure, of which the state is the core, centre, and focus. This means that the complex unity expressed in the state, by collecting

¹ Indo Aryan Polity, p. 33.

² Cf. Coker's "Organismic Theo. of the State" and Barker's Pol. Theo. from Spencer to To-day". p. 107.

³ Infra, Sec on Types of unity (e).

⁴ Spencer's Sociology Vol. 1. 1.

together all the social elements and forces into one whole, eludes strict definitions after the more or less exact sciences.

Though both mechanical and organic conceptions of the nature of the state, as a unity of the component parts, are found in ancient Indian thought, the latter is more prominent, bearing greater resemblance and nearer approach to similar ideas of the West.¹

Types of Unity

The idea of unity, inalienable and unavoidable as it is, necessarily haunting social and political speculation, whether in the West or in the East, was sought to be explained in many ways and by many methods. Hence the complex unity of the elements enumerated by the Hindu theorists varies according to the character of the idea present in the elements and gives rise to different conceptions of the state as a whole, *e. g.* (1) *Mechanical* in the Vedas; (2) *Organic* in Manu, the Mahābhārata Kauṭilya and Śukra; (3) *Spiritual* in Kāmandaka, and (4) *Artistic* in Śukra. All these are only rough estimates in the paucity of data, but their details are given below as far as possible. At certain places the mere ideas suggested in passing have to be worked out and partially supplemented in order to make them more explicit and intelligible.

¹ Little-John's "Political Theo. of the Schoolmen", p. 45. For instance, Śukra may very well be compared with John of Salisbury, who thinks that "the *Principate* or *regnum* is an organism, of which religion is the soul, the prince is the head, the senate is the heart, the judges and presidents of provinces are the eyes, ears and tongues, soldiers and subordinate officials are the hands, the king's assistants are the sides, husbandmen, common workers and labourers are the feet, and the administrators of finance are the belly and intestines".

Canonical Exposition

(a) The Vedic idea of unity, in spite of its application to cosmology and family and tribe, does not seem to have operated efficiently in the purely political sphere. Still it deserves mention, in as much as it is the earliest and it has also supplied the stock-phrase "the wheel and its spokes and its nave". Kauṭilya has used it with reference to the circle of states.¹ The Atharva Veda conceived of creation based on ultimate reality in this quotation—

"Thereon the gods and men are set as spokes
are fastened in the nave".²

Besides prayer for being "the centre of kinsmen"³, which is a similar idea of unity as noted above, the explicit advice in the following lines is only a further expansion as well as improvement—

"Serve Agni, gathered round him
Like the spokes around the chariot nave.
With binding charm I make you
All united, obeying one sole leader, one-minded".⁴

The metaphor underlying such thoughts did not advance beyond a static and mechanical unity, though suggestive of motion through the word "wheel". It is met with in later literature and is in fact a standard idea. The next step is to a "limb-like reciprocity" marking more advanced thought. This is also a standard phrase in Hindu philosophy.⁵ When literally translated the phrase would stand as "limb to the limbed attitude or relation" *i.e.* organic connection with the whole. It becomes a purely

¹ As in the Artha Śāstra, p. 325.

² Atharva Veda, Vol. 11. p. 40, Griffith's Trans.

³ Ibid, Vol. 1. 90. Griffith's Trans.

⁴ Ibid, p. 126.

⁵ Vide Śaṅkara's Brahma Sūtra Bhāṣya, p. 64, and Vāchaśpati Miśra's Bhāmatī, p. 63. Nirṇaya Sāgar Press Ed.

political category in being used as the index and measure of political strength. Viṣṇu Sarmā, the famous author of the Hitopadeśa, has pointed out.....“How can strength (political) be gauged without the knowledge of limb to the limbed relation ?”¹ That strength resides in intimate organic composition was clearly seen in the conception of this kind of unity.

(b) The Laws of Manu and the Mahābhārata have the organic conception of unity highly developed and applied to the state and its seven elements and are thus more advanced in this respect than the Artha Śāstra of Kauṭilya, which is to be taken up subsequently. It is difficult to find out chronologically, when this idea grew up and in what particular system of political thought. Manu seems to be the first, under the present circumstances, to have used the conception politically and the Mahābhārata has evidently followed Manu's procedure. The great legislator has brought in a very happy simile to explain the complex organic connection between the whole and its parts, which is repeated in the Epic. Says Manu—

“Yet in a kingdom containing seven constituent parts, which is upheld like the triple staff (of an ascetic), there is no single part more important than the others by reason of the importance of the qualities of each for the others.”²

The simile of the triple staff explains the nature of the unity most significantly, as the reference is to a very well known Brāhmaṇical custom. In the combination none is superior or inferior in any way due to any reason

¹ Hitopadeśa p. 95. B. Vidyāratna's Edition—

Āṅgāṅgi bhāva=relation between the limb and the possessor of the limb.

² Manu Samhitā, IX, 294. Vide Ghosal's Hist. of Hindu Pol. Theo. p. 170.

whatever, but all of them together make the staff as a whole, for otherwise there would be no religious significance in the staff itself. This comparison is meant particularly to illustrate the nature of the seven elements in mutual relation to the whole. The elucidation goes on further and in the verse following. Manu introduces the idea of the *individuality* of the factors, without destroying or even affecting in the least the organic nature of the whole composed by them—

“For each part is particularly qualified for the accomplishment of certain objects, and thus each is declared to be the most important for that particular purpose, which is effected by its means.”¹

Dr. Ghosal remarks that “this important extract exhibits, we think, for the first time, the application of the two principles in relation to the category of the seven limbs. These principles would be called, if we were to borrow western equivalents, those of integration and differentiation. It follows from the above that Manu presents a more complete conception of the organic unity of government than had occurred to his predecessors.”²

In addition it ought to be said that Manu is quite masterly, no one else having approached the point from the ideal of “concrete individuality.” Some Hindu political thinkers are more or less like John of Salisbury, given to superficial comparisons, without touching the core of the fact and properly analysing the underlying conception. Still it is surprising that in speaking of calamities, that might befall the several elements, Manu puts them in a properly graded list. The reason may be that certain elements are considered vital from the stand-

¹ Manu Samhitā, IX, 297.

² Hist. of Hindu Pol. Theo. p. 170.

point of the body-politic, as it is in the case of the physical body. Evidently Manu had the physical organism in mind when he treated revolution and resistance,¹ drawing a parallel between the two in order to make the meaning clearer. The verse is—

“Of the seven *prakritis* (elements) of the kingdom, calamity would be more serious accordingly as it affects each one of them in an ascending scale (i. e. each element standing before its next in a backward series).”²

The series of the different elements is—“Sovereign, ministry, fort, kingdom, finance, army and ally” in the verse 294 of the same book. No reason is given for this serial arrangement, and the commentators are not enlightening any more than the original. That their respective importance is suggested by their positions is the only possible explanation according to the custom of the Hindn writers, who tried to condense things into short verses.

The Mahābhārata in treating the subject practically repeats Manu in thought and language. Its conception is most ordinary throughout,³ as in the extract given below, where it likewise follows closely Manu's codes. But later on, it rises to a view deeper and more comprehensive than that of Manu from another aspect of the question by comparing the state to the family, as the composite social unit made up of similar parts. This seems to be one of the greatest and soundest principles expounded by the Epic, once more proving the climax of political idealism in its pages and in the history of Indian political

¹ See Supra, Doctrine of Resistance and Revolution, p. 107 ff.

² Manu IX. 295. Cf. Hist. of Hindu Pol. Theo., p. 170.

³ E. g. Rājadharmānuśāsana Parva, 57, 69.

speculation. What is common to the *Manu Samhitā* and the *Mahābhārata* is seen in the following extract—

“These seven limbs like the triple-staff live by clinging to one another. None of these is more powerful than any one of the others. Any one limb may be indicated to be principal, whenever a particular end is realised by it for the time being”.¹

This faint echo from the law-giver in the famous Epic only serves to show a layer of thought precipitated through the ages, how long ago none can tell. But the most original contribution of the Epic lies in the discovery of the identity, that runs through the state and the family, and this is essentially the spiritual unity of individuals with a common purpose. The state and the family, the king and the householder are founded on similar elements, and their natures are alike in many respects. The *Mahābhārata* brings out the parallelism in the following passages, just like Williams’ *Jura Magistratus*—

“Every man establishes his own authority in his own house (family) by rewards and restraints, therefore everybody is similar to a king. Like the king everyone has the collection of sons, relations, self, store, finance and ally.....To be proud of the presence (possession) of fort, army, kingdom, finance and ally is utterly futile (on the part of a king). Careful consideration will show that these are present in everybody.....No country is without a ruler, and there is no ruler who is absolutely supreme”.²

¹ Mokshadharma Parva, 321.

² Ibid, 321—Cf. “Every master of a family that ruleth his own household is a *petite* king. A kingdom is nothing else but a great family where the king hath paternal power” (*Jura Magistratus*, 15—cited in the *Divine Right of Kings*, p. 152).

Again it follows necessarily that when the seven elements are found to be present in every family (household), the state is nothing more nor less than a vastly larger family in a general sense. The family is only the smallest state, along with others of the same type, within the larger state comprising them all. The family becomes the unit for all practical purposes. In other words the family is writ large on the State. It is from this point of view that the king is said to be the patriarchal head of the state-family, in as much as "his subjects are like his own family".¹ Moreover the family-type of political relation is unfolded in further details—

"Prajāpati Manu has described the king as father and mother, preceptor and protector, Agni (Fire), Kuvera (the god of wealth) and Yama (the god of death).....A kind king is indeed like the father of his subjects, like their mother by willing their welfare and by maintaining the poor ones, like fire by burning away all harm from them, like Yama by punishing the wicked, like Kuvera by rewarding good acts, like preceptor by giving them religious advice, and like protector by preserving the kingdom".²

Manu gives in a short sentence the subject-matter of the above passage—

"In his own country the king should treat the subjects (lovingly) like a father".³

The present day tendency to apply the family-idea to the state is not without significance, even if it is not in the same way and from the same ideal, though for the same object. Only a strong mixture of spiritual idealism can make such a position possible, as it was with the

¹ Śānti Parva, 91.

² Āpaddharma Parva, 139.

³ VII. 80. See Also Buhler's Trans. in S. B. E. XXV.

Hindus according to their best available light at the time. It is worth while alluding to Ruskin's remarkably parallel ideal where a modernised version is presented of this classic conception.¹ The shortest summary of it all is that the state should be in magnitude what the family is in miniature.

Secular Exposition

(e) Kautilya, who is said to be the very originator of the doctrine of "the seven 'limbs'",² does not himself analyse the state thoroughly enough, so as to reveal its nature. Probably the elements were integrated in some remote past from the essential functions of the state spoken of even in the Vedas. They came down traditionally as solidified precipitate of the common ideas of the race.³

¹ Unto this Last and Other Essays—Pol. Econ. of Art, pp. 9-10. "The precise counterpart of such a household would be seen in a nation in which political economy was rightly understood.....That is to say, if they were to regard the nation as one family, the condition of unity in that family consisted no less in their having a head, or a father, than in their being faithful and affectionate members, or brothers.....And we can hardly read a few sentences on any political subject without running a chance of crossing the phrase 'paternal government', though we should be utterly horror-struck at the idea of governments claiming anything like a father's authority over us. Now, I believe those two formal phrases are in both instances perfectly binding and accurate, and that the image of the farm and its servants which I have hitherto used, as expressing a wholesome national organisation, fails only of doing so, not because it is too domestic, but because it is not domestic enough ; because the real type of a well-organised nation must be represented, not by a farm cultivated by servants who wrought for hire, and might be turned away if they refused to labour, but by a farm in which the master was a father, and in which all the servants were sons ; which implied, therefore in all its regulations, not merely the order of expediency, but the bonds of affection and responsibilities of relationship ; and in which all acts and services were not only to be sweated by brotherly concord, but to be enforced by fatherly authority".

² Ghosal's Hist. of Hindu Pol. Theo. p. 169.

³ Cf. Macdonell's Hist. of Sansk. Lit. pp. 281-2. If the views of scholars like Macdonell and others are taken into account, the Epic traditions

Kauṭilya's use of the materials on this particular point did not do proper justice to his great and towering political genius. He was content with simply naming and numbering the elements, so far as they were necessary for his purpose.¹ Yet his very significant use of the qualifying term "limb-like"² does not fail to suggest between the lines an organic connection and nature, which was not worked out at length. At least he had at the back of his mind something more than mere aggregation, when he tersely used the phrase "limb-like elements of sovereignty". Otherwise the words "limb" and "element" would make mere tautology in default of a biological idea behind them. Yet for him the seven limbs were all rooted in the sovereign, who is the "central pivot."³—quite a common tendency in almost all schools of Hindu Politics. Another peculiar statement of Kauṭilya, lending colour to the opinion above and showing the political relation between the ruler and the ruled and the kingdom, is inexplicable in view of the true structure of the state. His idea that "the king (as the head of the state) is the *aggregate* of the people and the kingdom" seems to indicate an unsound mathematical summation of units which the state never is. This has already been referred to in the chapter on the Theory of Kingship.⁴

will reach back to a very long past, before its present *Classical Sanskrit* version was made out of the colloquial *Prakrit* of the usual story language. The Epic age will be the great repository of all sorts of national traditions used by the later periods. Although it is dangerous to assign any certain date to any part of the Epic, the traditions, recorded and contained in it, may reasonably be maintained to be hoary with age, yielding some materials even to Manu as well as to Kauṭilya.

¹ Artha Śāstra, p. 319.

² Ibid, p. 319.

³ Ibid, p. 319 and p. 519. Vide Ghosal's, Hist. of Hindu Pol. Theo., p. 244.

⁴ Chap. II, Artha Śāstra p. 392 (Trans.) "Rājā rājyamiti prakṛiti saṁkshēpah" (Sastri's Ed. p. 323.) "Tatkūṭasthānīyohi svāmīti" (Sastri's Ed. p. 322.)

If it is understood to mean delegated authority of the whole body of the people concentrated in the king, it would wear a quite different complexion. From this stand-point the nature of the state becomes organic again, somewhat like collectivism.

The Jain writer Somadeva Surī deserves mention here though there is nothing remarkable in his contribution. He too followed Kauṭilya quite closely in almost everything. Dr. Ghosal says "with Kauṭilya he believes the king to be the root of the seven limbs of sovereignty".¹ In his *Nītivākyaṃṛitaṃ*, Somadeva practically repeats the usual political formula—

"With the king as their root, all the prakṛitis (elements) become fit for fulfilling their desired ends."²

The figure of speech is common enough to be left without any comment and the meaning is clear on the surface.

(d) In the *Śukra-Nīti* is found an exact replica of John of Salisbury spoken of at the beginning of this section. Śukra's effort at being accurate at all costs recalls the vagaries of Herbert Spencer in detailing out the elements of the state. Just as their attempts added nothing of any abiding importance to political thought, Śukra's treatment similarly stands aloof without producing any effect on later political literature. According to Śukra's comparison the seven elements of the state are represented thus—

"Of these seven constituent elements of the kingdom, the king or sovereign is the head, the minister is the eye, the friend is the ear, the treasury is the mouth, the army is the mind, the fort is the arms, and the state is the legs".³

¹ Hist. of Hindu Pol. Theo. p. 244.

² *Nītivākyaṃṛitaṃ*, p. 62.

³ *Śukra Nīti*, p. 11.

But for the spiritual and sacerdotal bias, Śukra goes exactly parallel to John of Salisbury. Professor Sarkar has remarked—"In reading this account.....of statal morphology we seem to be moving in the atmosphere of John of Salisbury without his theocratic superstructure".¹ Śukra has followed up this line of thought at another place although the simile is changed. At the end of his book he says—

"The king is the root of the state, the councillors are the trunks, the commanders are the branches, the troops are the leaves and flowers, the subjects are the fruits, and the lands are the seeds".²

Kāmandaka has spoken similarly of the king as the "*trunk*" (skandha) and the members of government as "*abāra*" (protecting covering) and their combination is called "*Skandābāra*".³ It seems to be a technical term for some sort of royal protection and also means a camp. This is but a mechanical conception, but for the purpose of drawing a parallel it is not useless. A subdivision of the grand analogy is offered by Śukra where the king is made the centre of the comparison—

"The crown-prince and the body of councillors are the hands of the monarch. They are also known to be his eyes and ears, in each case right and left respectively".⁴

Kāmandaka is just equal to Śukra, his comparison being—"The prime minister and the crown prince are said to be the two arms of a lord of earth ; the former is also said to be the king's eye".⁵

But to Śukra belongs the credit of positively designating the state as an *organism*, and pointing out in a

¹ Positive Background of Hindu Sociology, 11, p. 35,

² Śukra Niti, p. 262.

⁴ Śukra Niti, p. 67.

³ Niti Sāra, p. 230.

⁵ Niti, Sāra, p. 234.

definite way the true nature of the state, so far as it was already discovered by his predecessors. He has laid it down straight that "the kingdom is an organism of seven limbs",¹ and his definiteness is scientific everywhere.

(e) While enumerating the seven elements in the usual way, Kāmandaka elucidates their organic nature by making an important addition—"they contribute to one another's weal, and the loss of a single one of them renders the whole imperfect".² It is not simply a case of the elements clinging to one another and of being of equal value and importance. This intimate inter-relation is undoubtedly based on Manu and the Epic, yet it is certainly a decided improvement on them and for the first time it reaches the rock-bottom of the analysis of the state on the right principle, viz., the inter-connection of the parts and their relation to the whole severally and collectively. Neither in Manu, nor in the Mahābhārata, the true nature of the organism is fully elaborated—it has been broadly indicated and the functions of the elements were stressed to prominence. Kāmandaka rightly emphasises their bearing on the state as a whole and on one another. Further he makes a comprehensive and truly unique observation on the relation generally operating within the state, and on which the state stands and flourishes.—

"Just as the spiritual principle combined with matter, pervades this universe, so a king being united with his subjects extends his dominion over the earth".³

This remarkable statement is rich in philosophic depth and at the same time expounds a truth, which was probably in advance of the age from the point of view of scientific sociology. The king's religious preceptorship

¹ Ibid, p. 11.

² Nīti Sāra p. 30.

³ Nīti Sāra, P. 44.

taught by the Epic does not fall within this category.¹ It is a political relation which goes to establish the unity of the state and its character is spiritual. The unity of the king (the State) and the subjects (the people) is asserted to be like that of spirit and matter—a subtle pervasive principle. The simile itself is a veiled identity. Kāmandaka caught a glimpse of truth, which he could not fully elaborate and the reason is perhaps not simply want of insight, but that philosophy in India at that period was not properly applied specifically to society and social problems. He touched the right point, which has unfortunately ended like a mere aphorism. Yet it must be said that he rose to the “super-organic” conception of the state, to use Spencer’s happy phrase,² which was never thought of by Manu or the Mahābhārata and other Indian political thinkers.

(1) Śukra in a stray passage has tried to see *artistic* unity in the structure of the state. “Sovereignty in a state is deprived of beauty”, says he, “if there is the king only, but there are no ministers, well-disciplined kinsmen, and restrained offsprings”.³ This in a way makes up for his formal treatment of the state as an organism, and this seems to be as important, though often overlooked, as organic unity itself. In fact it is a special kind of organic unity. It has also a hint at the more than organic side of the state, as the harmony of society, and although it is not distinctly spiritual in Śukra, its import is none the less telling. Unluckily such an idea has been left undeveloped by the author. An efficiently conducted and well governed state is expected to present an impression of this type.

¹ See Supra, Sec. (b) State as family.

² Bosanquet’s Phil. Theory of the State, p. 24.

³ Śukra Niti, p. 15.

Unity in Constitution

The Unity of the state cannot be better realised in practice than in constitutions. Constitutionalism is the natural index of the cohesion of elements and adjustment of relations. Hindu constitutional theory and practice are essentially co-ordination of functions, royal, ministerial and popular. Public declaration was necessary for this purpose in the shape of royal oaths. "Nations of antiquity and nations of our own times have devised coronation oaths for their kings, but none more forcibly brings to the notice of the new king the all-powerful, the all-sacred position of the country he is going to rule. To offend against the country was to offend against God Himself.The oath originated with kingship.....was as old as kingship itself".¹ This observation of Mr. Jayaswal is typified in the citations below—

Vedic Royal Oath

(1) "Between the night I was born and the night I die, whatever good I might have done, my heaven, my life, my progeny, may I be deprived of, if I oppress you".²

Epic Royal Oath

(2) "I shall always regard the bhauma (the country) as Brahmā (the highest god) ; and whatever is to be prescribed as law on the basis of state-craft, I shall follow without hesitation, never my own sweet will".³

¹ Hindu Polity, 11. p. 49.

² Aitareya Brāhmaṇa, VIII. 4. 1. 13.

³ Śānti Parva, 59, p. 142. Bengal Ed. Also see M. N. Dutt's Trans. and Pol. Theo. & Inst. of the Hindus and Intro. to Ind. Pol. in Mod. Rev. 1912.

Later Royal Oath, (Indicated)

(3) "From today the kingdom is not mine ; this is the king who will protect the subjects. The people should be repeatedly informed of it as the witnesses and considered (collectively) the very god Vishṇu".¹

Indian constitutionalism is based on well-formulated "samayas" (compacts) or oaths, which the ruling head had to agree to when he took charge of the affairs of the state. Royal assurance had to be given on the lines of the royal oaths already cited. Besides safe-guarding popular interests and rights, they formed the foundation of law recognised by custom and tradition. It has been seen that in the theory of the creation of kingship, either by election as in the Vedic period,² or by divine will as in the Epic Age,³ this sacred understanding between the king and the people invariably intervened at some stage, when the national political experience was perhaps sufficiently developed and solidified. The first oath quoted above is of the Vedic time, and the second is of the Epic age, but both illustrate the limiting conditions laid on royal authority,—conditions which could not on any account be transgressed with impunity.⁴ This had a double effect, first of demarcating jurisdictions and secondly of establishing constitutional law thereby. The third oath duly inculcates the sacredness of the people as a body and how it should be regarded by royalty from the throne.

In the first typical constitution drawn up after the regicide of Veṇa, his son Prīthu was asked—

(a) To be just to all beings, (b) to punish according to righteous law, (c) to respect and carry

¹ Chanḍeśvara's Rājāniti Ratnākara, p. 83. Jayaswal's Ed.

² Supra. Ch. IV, Pol. Authority,

³ Ibid, 1. pp. 4-5.

⁴ Vide Note on Election and Deposition, Appendix.

out the law of the land indicated in the Vedas, (d) and never to act according to his own will.¹

Then from the popular side Śukra was made his priest, the Vāṅkhillas and the Sārasvatas (clans of wise men) became his ministers, and Garga became his astrologer.² Compared with this, Manu's election in the social contract³ marks an earlier stage, when monarchy is only formed and built up by popular contributions, before the birth of law. It is thus purely contract and not constitution in the sense of kingship based on law. Manu was invited to rule as king simply on a number of conditions. All the principal elements of the state, such as finance, army and territory were from the people, excepting the ministry, which becomes the chief point in the other account, where a real and actual constitution grows up. There is a great distance of time and thought between the contract with Manu and the covenant with Pṛithu; between the people's *appeal* to "righteousness (dharma) for protection" through Manu's prowess and the people's *demand* for "respect for the law of the land" on the part of Pṛithu. Conditions were created for Manu's government while directions were given for Pṛithu's government. The culmination was in the royal oaths marking out constitutional progress and profound regard for the people.

The Council

The next great constitutional achievement is in the "councilar element" in Aryan politics, whether in the rule by one or by many. It supplies the first planks of constitutional government. Historically the ancient tribal assembly was the back-ground out of which the council

¹ Śānti Parva, 50.

² Ibid, 59.

³ Vide Śūpra, Ch. IV, Popular Political Authority.

developed for executive purposes.¹ Its theory is necessarily intertwined with its genesis and is better understood in connection with its growth. It is the opinion of Macdonell and Keith that "the business of the council in the Vedic times was general deliberation on policy of all kinds and legislation, so far as the Vedic Indians cared to legislate".² Professor Sarkar has observed that "with the expansion of the tribe and clan in population and area, the primitive *agora* of the whole folk must have gradually dwindled into the less numerous and hence less democratic council of ministers, i. e. the king's advisers in peace and war".³ This is identified by Professor Sarkar as the third stage of the evolution of the *Sabhā*, as distinguished from the Vedic Assembly (*Samity*), already referred to in the section on Popular Political Authority. A further specialisation of the council is the *Parishad* according to Dr. Law.⁴ The word occurs in Vasiṣṭha⁵, Manu⁶, Baudhāyana⁷, Parāśara⁸, and all of these are important books of law. Kaṭilya and Kāmandaka also speak of it in the same way.⁹ Its function is said to be judicial in the law books, but this seems to be its specialised application. Broadly speaking the councillor character is legislative even in the Epic time as the Mahābhārata remarks—

"That is no assembly where there are no elders,
Those are not elders who do not declare the law".¹⁰

¹ Law's Aspects of Ancient Indian Polity, p. 32, and Sarkar's "Positive Background of Hindu Sociology", p. 54.

² Vedic Index, 11, 431.

³ Pos. Back-gr. of Hindu Soc. p. 55.

⁴ Aspects of Ancient Indian Polity, p. 36.

⁵ 111, 20.

⁶ XII, 111.

⁷ 1, 1, 1, 8.

⁸ VIII, 34.

⁹ Artha Śāstra, p. 29 ; Nīti Sāra, p. 180.

¹⁰ Mahābhārata, V. 35. Quoted by Dr. Law in "Aspects of Ancient Indian Polity", p. 27.

Co-operation and Deliberation

The theoretical side of government by Council lies in the conception of (a) co-operation by means of (b) deliberation giving rise to (c) a common purpose, which is operative through (d) a head, who like the nucleus holds the several elements together, so as to produce a total effect. The assumption behind it, is that many minds laid in the same direction, can face all problems better and more successfully by their combined contributions. This was the experience of the race. The practical results of the Vedic conceptions of common mind in the Assembly, and common object in Election¹ are illustratively reflected in Manu's Laws, the Epic, the Artha Śāstra, Nīti Sāra and Śukra Nīti. It is rather surprising that none of them has changed or altered the theory in any way, since its first scientific inception. On the contrary the trend of thought is uniform throughout the long centuries intervening between the compilation of these works. The differences, as far as they could be seen, are slight and apparently verbal. For the Vedic common mind, common object, consultation and tribal leadership are found the more practical words such as co-operation, deliberation, well-discussed policy and the head of the state. By this time the tribal state became fully territorial.

The Mahābhārata, besides advising co-operation for ordinary works, such as those of farmers, shepherds and merchants.², speaks of the organisation of the state—

(a) "Leaving apart the question of government, even common works are difficult to be done alone. Hence for the work of the state the priest and the

¹ Supra, Popular Authority.

² Śānti Parva, 78 & 79.

ministers and their help and advice ought to be accepted by the king".¹

(b) "It is not within the power of one person to be engaged in the five (essential) needs of the state. The king should therefore entrust them to trust-worthy and well-stationed officers".²

(c) "The king cannot govern the state for a day without ministers".³

Manu has a slightly verbal change but is similar in purport to the above—

"The work which is easy in itself becomes at times difficult to be performed by one man. How can the government of a kingdom be possible alone which is productive of great results"?⁴

Yājñavalkya says in passing that—

"It (the state) is capable of being righteously administered.....by a truthful, pure and intelligent person who has good help-mates".⁵

Kauṭilya expresses the same truth felicitously by means of an exquisite simile—

(a) "Sovereignty is possible only with assistance. A single wheel can never move. Hence the king should employ ministers and hear their opinion".⁶

(b) "In the absence of ministers.....the king loses his active capacity, like a bird deprived of its feathers"⁷

Śukra advises help of ministers on the ground of the development of state and according to him—

"The actions of kings without help (of councillors) lead to hell and destruction".⁸

¹ Ibid, 80.

² Ibid, 106, 115.

³ Yājñavalkya, p. 57.

⁴ Ibid, p. 392.

² Ibid, 93.

⁴ Manu, p. 357.

⁶ Artha Śāstra, p. 141.

⁸ Śukra Niti, pp. 56, 183.

The essential feature of a government, conducted by means of co-ordination and co-operation, has to be in deliberation and discussion, in order to include the contributions of as many as possible to form a common decision (end) on problems pressing for solution. Such a position illustrates not only the limitation of the royal power, but also the impossibility of anybody usurping more authority than his legitimate share. Hence naturally enough deliberation is enjoined by the canonical as well as the secular politicians—

(a) Manu sees the great importance of deliberation and is in this respect on the same level with secular writers. His view is that “free”, “separate” and “united” consultation is needed for all affairs of the state, as warfare, taxation, consolidation of the country and the army and state charity.¹

(b) The Mahābhārata points out in its own radical way “that in respect of peace and war.....sport and enjoyment, the king has to consult with his ministers and then to judge advantage and disadvantage in favour of restraint.....Where is his freedom in that case?”² In fact “nothing can be achieved without deliberation”.³

(c) Yājñavalkya advises consultation with ministers and commanders though not explicitly like Manu or the secular writers.⁴

(d) Brihaspati has a few pithy lines.....“policy is carried out after examination by councillors. Let him (the king) examine what is to be done or not to be done in conjunction with councillors”.⁵

In secular Political Literature deliberation takes a

¹ Manu Samhitā, p. 358.

² Vana Parva, 149.

³ Brihaspati Sūtras, p. 31.

⁴ Śānti Parva, 321.

⁵ Yājñavalkya Samhitā, p. 57.

prominent place as a matter of necessity. Kauṭilya, Śukra and Kāmandaka are all convinced of the intrinsic value of the formulation of policy. Kauṭilya's view is—

“Whosoever is wanting in the power of deliberation should collect wise men around himself and associate with old men of considerable learning, thus he would attain his desired end”.¹

Again—

“No deliberation made by a single person will be successful”.²

Śukra speaks of “deliberation on proposals and consideration of problems in the council house”³ constructed specially for the purpose and further his clear advice is—

“He (the king) should consult with his ministers on future actions....He should discuss royal duties with friends, brothers, sons, relatives, commanders, and members in the council house”.⁴

Kāmandaka is most abstract on this subject. His general statement is that “the power of counsel is of greater importance than that of arms”⁵ and “is superior to the powers of energy and dignity”.⁶ But his specific injunction is that—

“A king seeking his own welfare should discuss the subject of a consultation severally with each of his ministers” and also “act upon that counsel that should be proffered by a highly intelligent and numerous supported minister” and again “duly entering the cabinet a king should hold counsel for facilitating the success of an act of undertaking”⁷

¹ Artha Śāstra, p. 374.

³ Śukra Nīti, p. 33.

⁵ Nīti Sāra, p. 225.

⁷ Ibid, p. 180.

² Ibid, p. 31.

⁴ Ibid, p. 48.

⁶ Ibid, p. 169.

In Somadeva Surī's opinion the object of deliberation in council is "the attainment of large results at small expense".¹

The Head and the Members

The importance of the Executive Head of the State and of the Ministers forming the regulative body may be placed one after the other for demonstrating not only their position in the organisation of the state, but also their reciprocal influence in limiting and balancing political power with weighty considerations from the side of the king as well as of the people. The relative value of the office of the king and of the ministry is dealt with from the stand-point of their inter-relation within the constitution. For such a state a head is needed as much as other officers to carry on the work of government.

The broad principle is amply illustrated in all types of political writings. In the Vedic Election a leader was felt necessary for the good of the tribe against its enemies.² In the Epic, a king is enjoined to be necessary for society and its preservation. It says—"One has to be consecrated to the royal position by those who wish for prosperity"³. For the imperialist Kauṭilya, as a matter of course, "the king is the central pivot" of the state.⁴ Śukra has quite a similar idea, but he is more explicit as well as emphatic. According to him "subjects however vicious must not be without a king"⁵ and again "there should be only one leader in a state, never many; the king should never leave any situation without a leader".⁶ Kāmandaka holds that "the whole monarchy collapses with the king and revives

¹ Nīti Vākyaṃṛitaṃ X ; Vide Public Admins. in Anc. Ind. p. 102.

² See Supra, Pol. Authority II.

³ Śānti Parva, 67.

⁴ Artha Śāstra, p. 519.

⁵ Śukra Nīti, p. 15.

⁶ Ibid, p. 46.

with his revival".¹ Hindu thought in general resembles in this respect Dante's idea that man's best interests require a ruler² and Filmer's conception that kingship is natural and necessary.³

The importance of the ministry is likewise signified by various ways and by various sayings, the common point being that the ministers are considered to be "the *sole props of the state*". The Mahābhārata declares that "the kingdom flourishes through the power of consultation.....it is like the royal shield.....it is the root-cause of state preservation".⁴ In Kauṭilya's opinion "the minister is the main stay of the security of the king's life", since "all activities proceed from the minister".⁵ Kāmandaka follows the Epic and says that "the seed of counsel.....is the seed of kings".⁶ "There can be no prosperity of the kingdom if the ministers are not feared by the ruler" and "without the advice of the *prakritis* (ministers) the state is sure to be destroyed", are the views of Śukra.⁷ Kāmandaka makes the ministers severally as well as collectively responsible for the mistakes of the king. "Those ministers", he says, "are considered to be true guides of the king, who deter him from going astray". Hence the ministers are required "to instil knowledge into him".⁸

Thus it is that both Professor Sarkar and Sarasvati are inclined to characterise general Hindu politics "ministerial" to all intents and purposes, i. e. based on the ministry, or in other words, constitutional.⁹ It may be expressed as ministry-centred. Prof. Sarkar has definitely

¹ Niti Sāra, p. 37.

² Hist. of Pol. Thought, p. 119.

³ Divine Right of Kings, pp. 151-2.

⁴ Śānti Parva, p. 83.

⁵ Artha Śāstra, p. 392.

⁶ Niti Sāra, p. 175.

⁷ Śukra Niti, pp. 69, 70.

⁸ Niti Sāra, pp. 37, 38.

⁹ Sarkar's Pol. Theo. & Inst. of the Hindus, p. 178 and Sarasvati, Hindu Rājanīti p. 20.

spoken of the ministry as the very "pivot of national life" and Sarasvati's conclusion is that "the minister is the helm of the national boat". The king's position is naturally and necessarily summed up as that of "the permanent executive". Somodeva Surī says the same thing in fact by pointing out that "He is no king who acts without the advice of the ministers".¹ This is equal to yielding political initiative considerably to the constitutional element of the state. The implication is that a close supervision is necessary on the part of the king and of the ministers for guarding general interest expressed in laws and customs that keep social life alive. Kāmandaka has the grave warning that "the king who crosses his own ministers is himself soon crossed".²

The character of such a constitution had to be watched and nursed with national care, for it could make or mar political life. The executive as a whole including the king and his ministers formed the "*Engine of sovereignty*", to quote Śukra's expressive phrase,³ which was responsible for the good government of the country.⁴ In Sanskrit Drama Literature the royal position is seen unmistakably in the back-ground of the ministry, a fact indicating the national importance of constitutional traditions.

".....Kings must have
Their own desires, but for the general good
Forego their own advantage. And to lose
My own for others' benefit makes me a slave".⁵
"And countless victims perish by the guilt
Of treacherous ministers, who thus involve
Both Prince and people in promiscuous ruin".⁶

¹ Nītivākyaṃṛitam X.

² Nīti Sāra, p. 175.

³ Śukra Nīti, p. 11.

⁴ Vide Public Admin. in Anc. India, p. 117. and Abul Fazl's "Ayeen-i-Akbery", Gladwin's Trans. p. 493.

⁵ Mudra Rakshasa, Act III.

⁶ Mṛicchakaṭika, Act IX.

The king's office is indeed very difficult for "weary lies the head that wears a crown" and the ministers are no better in this respect for "the position of a minister is no enviable one".¹ To produce the highest results co-ordination of both would be necessary at every step as well as integrity and faithfulness. But above all a clear conception of "the general good" should be the greatest and the most important content of the relation between the ruler, the ministers and the ruled. It is the pre-requisite of corporate life in all shape and nothing can be expected to be achieved, where this is lacking or neglected by those in the charge of affairs. "Promiscuous ruin" would be the sure result of faithlessness to this moral ideal. The subtle difficulty was very well depicted by the ancient dramatist Bhāsa—

"If policy succeeds the people acclaim the prince's
might,
If disaster ensues, it condemns the incompetency
of the ministers".²

The subject of the Brāhmaṇa-Kshatriya combination (i. e. the joint effect of the wisdom of the Brāhmaṇas and the prowess of the Kshatriyas) and the problem of the number of ministers are to be found in Appendix, Note 6.

¹ Bhāsa's Avimāraṇa, 1. 5. Quoted in Keith's Sanskrit Drama, p. 118.

² Keith's Sanskrit Drama, p. 119.

CHAPTER IX

**NATIONAL SENTIMENTS
AND IDEALS**

Freedom and Unity

The Indo-Aryans were born to freedom and were by nature great lovers of freedom. As they expanded on the Indian soil in an unaccustomed climate and amidst races quite different from their own, they had to meet at every turn blocking obstacles from men and nature. They prayed chiefly for the removal of what stood in the way of their pushing forward with the increase of number and strength. Their passion for freedom in the widest sense found lyric expression in the records left by them. Both the R̥ig and the Atharva Vedas show unmistakable evidences of the spirit of liberty and enterprise, which worked vigorously in those far-off days and left indelible traces first in the hearts of men and then in the hymns to their gods. Such evidences reveal their wonderful tenacity and courage as much as their religious zeal roused by difficulties.

The R̥ig Veda has a number of instances, where blessing in the shape of "room and freedom" was asked of the gods. In fact the phrase is almost a standard supplication occurring frequently in the same unchanged form, and its meaning is not far to be sought. They wanted space for expansion, land to live upon as masters of their own homes and affairs, and sway over the newly acquired country and the unknown and unfamiliar men found in it. But more than these, their unimpeded

growth was mostly in their minds. Their national god Indra is propitiated to this effect in the following lines :—

“May Indra from the front and from the centre,

As friend to friends, vouchsafe us room and freedom.”¹

The same prayer is offered to other gods for the same purpose, which is for obtaining from them protection and freedom in every respect—

“Now, Deities give us ample room and freedom

Be all of you, one minded, our protection,”²

The following lines from the Atharva Veda may be well compared with the above. The spirit is the same although historically the hymns are of later production :—

“Widely it stands around and far extended

Fair to the gods and bringing peace and freedom.”³

* * * * *

“Ye six divine expanses give us freedom”.⁴

By the time of the Atharva Veda the need for more room seems to have dropped out and the tribes settled down in suitable places. But freedom they desired as their birth-right, which became conspicuous in Kauṭilya and Śukra as a highly developed political concept, fraught with all the implications of age-long political experience and tradition.

Along with natural love of freedom, the instinctive longing for unity is seen in the social idealism of the Vedic time. It is wonderfully spontaneous and human and certainly too advanced for that early age. The sages saw the need as well as the possibility of unity among the many tribes and magnified the idea ; its practical character is manifest in every line ; undoubtedly it served

¹ Rig Veda, X. 44, p. 445. Griffith's Trans.

² Ibid, VII. 48, p. 50,

³ Atharva Veda, V. 12, p. 206. Griffith's Trans.

⁴ Ibid, V. 3, p. 192.

as a cementing principle in those days when people of different stocks, Aryans and non-Aryans, were coming into increasingly closer contact. The following passages occur in the Atharva Veda with a beautiful religious inspiration guiding ingenuous social sentiment—

“Give us agreement with your own,
With strangers give us unity,
Do ye, O Asvins, in this place
Join us in sympathy and love.
May we agree in mind, agree in purpose,
Let us not fight against the heavenly light,
Around us rise no din of frequent slaughter,
Nor Indra’s arrow fly, for day is present.”¹

The consciousness of the complexities of life did not fortunately destroy the sense of unity, so essential to life itself. A healthy sentiment marked by a wide out-look is to be found in the lines below and should be read with the fore-going extract. The hymn under notice is addressed to the earth, the common home of all, and all types of men and beings are conceived of as mutually helpful and therefore, as it were, blessing one another. It is a typical Hindu imagery, namely, the inter-connection of the whole universe of the animate and the inanimate.

“Earth bearing folk of many a varied language,
With divers rites as suit their dwelling places,
Pour like a constant cow that never faileth
A thousand streams of treasure to enrich us.
Produced from thee, on thee move mortal creatures,
Thou hast them both quadruped and biped,
Thine are, Prithivi, these five human races,
For whom, though mortal, the sun, as he rises,

¹ Atharva Veda, VII. 52, p. 351, Griffith’s Trans. ; Whitney’s rendering appears to be rather literal (H. C. S. Vol. 7, p. 422).

be the religious assembly for praising and honouring God and all the races of mankind made up the synods for this purpose. The word "synods" shows that presumably all the synods are thought of collectively praising the god Indra. Again in a simple yet sublime and homely metaphor the Mahānārāyaṇa Upanishad points to "where the whole world becomes one nest."¹ The idea of the Kingdom of Heaven with its ever-expanding social, political and religious implications mark the culmination of the same process of idealistic speculation, as is happily illustrated in the nest-idea for drawing all mankind together. It is in the Gītā that the final word is spoken in this connection, and that only in the shortest way possible; and the world of men and gods is exhorted "to help one another to live and realise the highest good."² The rudiments of the Vedic ideal of unity are a glorious beginning worthy of the later metaphysical unity of the Upanishads,³ which has stood the tests of time and left a rich legacy of moral and social truth.

¹ Mahānārāyaṇa Upanishad, I. 3, p. 186. Bombay Ed.

² Gītā, III. 11.

³ This humanism was never lost to view, while its social implication deepened as years rolled on and thought progressed. The oft-quoted verse popularised by Viṣṇu Śarmā gives in a nut-shell the whole of Hindu outlook on social relationships of the largest scale. It may be different from the Latin saying—"Homo sum, humani nil a me alienum puto"—on which so much of Western social thought was based at a time, but the spirit is well understood when it is said with the ancient Hindus—

One belongs to us or is a stranger is the calculation of the narrow-minded, but to the high-souled the whole world is, as it were, kith and kin.

(Hitopadeśa, p. 39, Vidyāratna's Ed.)

The imagery here is that of a large world-family, where inter-relation has established a comprehensive unity. It categorically asserts this unity to be of the same type, as it were, of actual blood-connection and consequently does not see any necessity for the negative process of wiping out the differences between the Jew and the Gentile, the Greek and the Barbarian.

These germs of freedom and unity may be seen in mature forms in later ages, when progress became more

The unity is truly in difference and in spite of difference. Christian thought is gradually coming to realise this position at the present time.

Both Sylvain Levi and Sten Konow have commented on this famous and inspiring stanza (Mod. Review, Sept. 1926, pp. 241-245). They have seen the potentialities lying beneath the idea. Yet it seems both are inextricably caught under the influence of classical political maxims and their thoughts struggle with difficulty to reach beyond politics. The Sanskrit concept of a world of relatives, though not of blood, transcends political and economic considerations, like that of the kingdom of heaven enunciated by Christ. There can be no antagonism between humanism and classicism (Ibid, p. 243) in such a relationship, which is essentially spiritual, when what is needed is but the transmutation of every connection into the spiritual. Professor Levi has well said in this context—

"We believe in the unity of mankind, we know or we assume that we belong to the whole of humanity; that the whole of humanity is connected with us. Wherever a man lives, works, suffers, he is ours; we have to understand him; to clear away the casual differences which time and space may produce in order to reach the permanent elements of brotherhood which, we are sure, lies at the bottom of mind and heart." (Ibid)

Professor Konow has criticised this and added the following—

"They (the Indians) were aware of the unity of mankind, because each individual is a spark from the eternal source of light. But this unity is of a different kind from that described by Mr. Levi and must be realised by each individual as a man and not as a citizen". (Ibid, p. 243).

It is indeed very difficult to understand what he means by differentiating between a man and a citizen in this respect and it is equally doubtful whether a man can be divided up in this fashion in the social sphere. The whole question in social idealism is to transcend the citizen or the particular, national and yet gather him up in the man. It is the same in Christianity, as well as in Hinduism. Professor Konow seems to be arguing from a wrong universal in this connection. When the spiritual gets the precedence, as in all kinds of idealism, the man becomes more important than the citizen, who is subsumed and included in the man. If humanism is to be an authoritative principle it ought to be spiritual at last—and it is so in reality—based on what in man is the most universal, important and abiding.

Hindu humanism is a spiritual doctrine applicable to man wherever and whatever he may be. It does not admit any difference between the ascetic and the householder, when the inner man is taken into account. It knows there are Greeks and Barbarians, Aryans and Mlechchhas, but the man in

intensive and extended its influence on the many phases of national life. The two strains of thought run almost parallel to their respective climaxes and they do not altogether pass out of view, even if logical connection may not be available throughout. The spirit of freedom worked itself out specifically in theoretical treatments, through its strong exponents Kauṭilya and Śukra as well as in the Mahābhārata ; while unity put on a partially religious garb and found the sublimest expression in the ethical ideal of ahimsā.

National Freedom

National freedom is conceived at its highest by Kauṭilya and Śukra, which will compare well with modern standards. They saw in self-rule the realisation of the greatest possible liberty, until all obstacles to liberty were removed in the idealised polity, like those described in the Epic and in some of the Purāṇas. All this is different from the vague yet passionate outbursts of the Vedic people, being strictly determined by the demands of political science. Kauṭilya though an imperialist knew the value of liberty whether personal or national. Indeed no political thinker was so thorough and accurate in this respect. To him personal liberty was an axiomatic truth needing no argument for its proof. He gave to

them makes for a universal family unit. This ultimately depends on the culture of the heart—first individual and then collective—whether it is developed in the hermitage, the homestead or in the city-state, and is not a matter merely of temples, synagogues and churches. The spiritual quality of man asserts itself under all conditions, and is the greatest safeguard in a world of conflicting interests. What a beautiful conception is contained in the oft-quoted line of the Hitopadeśa !—"He is really happy who sees the self in all beings" (Udyoga Parva, 45),—serving not only to explain the philosophical basis of social idealism but also to bring it to the level of the Ethical conception of Green and other Neo-Hegelians. Cf. Hopkins, *Ethics of India*, p. 235.

"Āryahood"¹ the connotation of cultured liberty and declared "never shall an Arya be made a slave".² On the same principle Kauṭilya condemns foreign rule. It is an unmitigated evil with nothing to counter-balance its effects. "Foreign rule, which comes into existence by seizing the country from its king.....thinks that the country is not its own, impoverishes it and carries off its wealth, or treats it as a commercial article, and when the country ceases to love it, it retires abandoning the country".³ Śukra says with equal stress that "great misery comes from dependence on others. There is no greater happiness than that from self-rule".⁴ And Manu laid down in an ethical strain the general principle that "pain is subjection to other people and happiness is subjection to self—this is the sign of pleasure and pain in short".⁵ Comparing the above with Mill's observation on the same topic it is remarkable that there is so much similarity of thought.⁶ It is to be noted as well that Professor B. K. Sarkar has called Śukra's position positive and that of Kauṭilya negative according to the nature of treatment as well as of content.⁷

It will not be out of place to notice here a remark of Havell skilfully used by Mr. Row, who evidently

¹ Artha Śāstra, pp. 231-232.

² Artha Śāstra, p. 231.

³ Artha Śāstra, p. 395. See Hindu Policy, p. 94 for Mr. Jayaswal's interpretation.

⁴ Śukra Niti, p. 126.

⁵ Manu Samhitā, IV. 160.

⁶ Rep. Govt., p. 384. Everyman's Ed.—Mill has pointed out that "the government of a people by itself has a meaning and a reality; but such a thing as government of one people by another does not and cannot exist. One people may keep another as a warren or preserve for its own use, a place to make money in, a human cattle farm to be worked for the profit of its own inhabitants". Again, "between the subjection to the will of others and the virtues of self-help and self-government, there is natural incompatibility. This is more or less complete according as the bondage is strained or relaxed".

⁷ Ibid, p. 215.

⁸ Pol. Theo. & Inst. of Hin. p. 215.

means to develop the conception of liberty in conformity and in unity with that of dharma (righteous order) and jñāna (culture). He shows first that "Arrian stated that in Ancient India every one was free". And then he quotes from the Ancient and Mediaeval Architecture of India—"It is true that the Indo-Aryan liberty was not of the crude Western type represented by the formula of Liberty, Equality, Fraternity. It was liberty for every man, whether king or peasant, to follow his own dharma—that dharma being that which long tradition and the wisest of Aryan law-givers, who knew Indian History and the Indian people, had taught everyman within the Aryan pale to regard as his duty to God, the state, his household and himself".¹ It is no wonder, therefore, that Sir Herbert Risley said on the authority of Sir Henry Maine that "the idea of nationality was first divined from India; it travelled westwards; now it is travelling back to the East growing and spreading out, but without the root of experience".² The ideals of liberty and nationality suffered very badly in the middle ages in India, but the traditions of such ideals are deep rooted in dharma (righteous order) even today. Modern thoughts coming from the West have reinforced them tremendously, yet the right adjustment has still to be made in the light of ancient dharma, in order to avoid the undesirable effects of unsynthesised extremes as well as the dross that comes with the leaven.

Utopia-Building

The pressure of the will to freedom logically raises thought to that plane where limitations are eliminated and theoretical perfection is achieved in imagination. The

¹ Development of Democracy in India, p. XI.

² Ibid, p. 81.

Hindu idealists were sharply intolerent of all kinds of injustice and were prepared to be anything as against being in chains in any way. In their opinion, which is clearly reflected in this verse—

“The state of a frog in the mud is desirable, of an insect in dirt, of a snake in a lightless cave, but never man’s injustice”.³

This is their finding after all their serious consideration of “what man has made of man”. They were forced to look beyond the present and to conjure up the possibilities of a better future. The condemnation is hyperbolic above, giving a vivid word-picture of the Eastern mind, for seriously none would be ready to be frog and insect and snake, when proper consideration was not procurable in the world. “Equality (to all beings) is the highest standard of conduct”⁴—all knew it well and also that “anarchy is preferable to a worthless king (state)”⁵ These thought set forth their social and political experience.

Political idealism, issuing from the efforts of political science in bringing about a better and more satisfactory state of society, invariably joins forces with the political aspiration of those with a vision for the future. Its literary manifestation is in imaginary picture of ideal, social and political organisations, showing the measure and extent of possibilities. Here the social element is made to grow and mix with and lose itself in the moral and the spiritual, since any human perfection cannot but be ultimately of this nature. Buddhist and Epic thought supplies such instances of Utopia-building without lengthy elaboration. No account relates the conditions, which

³ Yogavāsishṭha Rāmāyaṇa, II. 14, p. 57—

Varam kaddamabhekatvam malakīṭakatam varam

Varamandhaguhāhitvam na naraśyāvichāritā.

⁴ Nītvākyāmṛitam, p. 9.

⁵ Ibid, p. 57.

gave rise to such political picture-painting in ancient India, and there is no historical record of antecedents, like those of More's Utopia and Harrington's Oceana, although the Buddhist Sukhāvati may be understood as the Augustinian City of God. In the huge mass of materials in the Mahābhārata, mythical geography has shown fanciful islands with different grades of communal life. The most perfect one, named the "Śaka-Island", yields the sub-joined Utopian history—

"There the people are divided into four varṇas or classes; they live long and are devoted to their respective duties. There is no fear of theft, nor old age and death have power there. Men prosper just as rivers swell in the rainy season.....In that country they have no king and no fear of state punishment and no police officers. The people mutually hold and preserve one another by their own righteousness".¹

Such a description is expected only of a perfect society, where the members are so far moralised as to require no state at all. The next natural step is to the spiritual region, which to all intents and purposes stands to be the *Super-state* or "*Extra-state*", as the word has been coined by Professor B. K. Sarkar. All our political concepts and economic ideas have no place there. In fact the economic and political conditions cease to operate there, and therefore the result is also different.

The inner urge of Buddhism rising from its fundamental conception of freedom over-flowed its religious boundary into the fields of politics and economics. The practical defects and short-comings of society, due to wrong distribution of property and power, are eliminated in the perfected abode of bliss. The whole world of

¹ Bhishma Parva, XI. p. 553. Partially similar descriptions are available in some Purāṇas as the Bhāgavata and the Viṣṇu Purāṇas.

matter and fact, together with physics and botany, politics and economics, is idealised into the two fancy-fashioned spheres of eternal happiness, designated the larger and the smaller Sukhavati or the world of the Buddha. The conception is thus detailed out in a few relevant passages.

There is nowhere in that Sukhāvati world any sound of sin, obstacle, misfortune, distress and destruction ; there is nowhere any sound of pain, even the sound of perceiving what is neither pain nor pleasure is not there. In that world, Sukhāvati, beings do not take food consisting of gross materials of gravy and molasses, but whatever food they desire, such food they perceive as it were taken and become delighted in body and mind. Yet they need not put it into their mouth (40-1). And when these beings there desire, thinking what kind of wishes should be fulfilled for them, then exactly such wishes are fulfilled for them according to the Law (39). And again Ānanda, all those beings, who have been born in that Buddha country recite the story of the Law, which is accompanied by omniscience and for the beings in that Buddha country there exists no idea of property whatever (55). For in that super-sensual region beings are not born with any idea of property even with regard to their own bodies (13). And all those going and walking through that Buddha country feel neither pleasure nor pain, stepping forward they have no desire and with desire they do not step forward. They give no thought to any beings.....For those beings who have been born in that world, Sukhāvati, there is no idea of others, no idea of self, no idea of inequality, no strife, no dispute, no opposition. Full of equanimity, of benevolent thought, of tender thought, of affectionate thought,.....of thought fixed

on the practice of discipline and transcendent wisdom,they discard the eye of flesh and assume the heavenly eye" (55)¹.

Practical politicians and statesmen, ancient as well as modern, are averse to imaginary politics, which is never useful, but merely provokes futile desire for unattainable things. Kauṭilya, Kāmandaka and Śukra are altogether stolidly silent on such possibilities of perfection in political picture-painting. Milton, Cromwell and Burke were definite about its uselessness.² But its value will always lie in the fact that the human mind is never satisfied with present achievements, but tries always and under all circumstances to rise to something higher. It is the "divine discontent" in the political field. Even "the Kingdom of Heaven" is, a sublime unity of man's social and political aspiration spiritualised to the very highest, here and hereafter.³ That morality and politics, when they are highly sublimated, inter-mix with religion is a fact well-known in the East as well as in the West, since there cannot be a sharp and lasting distinction between the goals aimed at by these sciences.

Love of Country

Another phase of nationalism, though narrower still, is patriotism or love of country. It manifested itself quite early in the R̥ig Veda and later on in the Atharva Veda. The circumstances giving rise to such a sentiment in the Vedas are unknown, but it may be said with some cogency

¹ Buddhist Mahāyāna Texts, II, pp. 13, 40, 55. S. B. E. Vol. XLIX, Oxford, 1894. Vide Prof. Sarkar's Pol. Th. & Inst. of Hin. p. 204.

² Vide Areopagitica, p. 25. Clarendon Press; Arnold, History of English Literature, p. 358; Conciliation with America, p. 165. Paine's Edition.

³ Seeley, Ecce. Homo. Ch. XI. p. 134—

that the natural features of the land made it to a great measure lovable on aesthetic as well as economic grounds and long association then played its legitimate part in forming the sentiment. That the noble utterances are impassioned, revealing the soul of a people, are evident *prima facie*. Professor R. K. Mukherjee says—"the very first factor of nation-building being absorbing passion for the place of one's birth, it is no wonder that Sanskrit literature should contribute towards its growth, as it had contributed towards the other interests of a healthy national life."¹ Thus the *Rig Veda* demonstrates the affectionate regard for the land of the five rivers, fertile and picturesque by nature, when the rivers themselves are extolled in song for their beauty and benignity, and the Earth is deified and praised for her manifold gifts :—

“Thou, of a truth, O Pṛithivī, bearest the tool
that rends the hills,
Thou, rich in torrents, who with might quickenest
land, O mighty one.”²
“Favour ye this my land, O Gaṅgā, Yamunā,
O Suturdī, Parushnī and Sarasvatī
With Asiknī, Vitasā, O Marudvṛdhā, O Arjikiya
with Syshoma hear my call,
First with Trishṭama thou art eager to flow forth,
with Rasa and Susartu and with Śvetya here,

“The cry which John raised in the desert, “The kingdom of heaven is at hand”, was taken up by Christ and.....his life was devoted to proclaiming this new political constitution, to collecting adherents to it and promulgating its laws. That kingdom of God into which he called men, he elevates in this passage into the summum bonum of human life, and represents it as the secret of happiness and of all enduring good to belong to the divine society and to understand and keep the rules prescribed for its members”.

¹ Nationalism in Hindu Culture, p. 13.

² Rig Veda, v. 84.

With Kubha and with these Sindhu, and Mehatnu,
thou seekest in thy course Krumu and Gomati.”¹

These are simple words of the earlier sages, but these very thoughts became radiant with emotion with age, reinforced by a singularly passionate devotion never out-stripped in Sanskrit literature. The Atharva Veda sings of the Earth and her many blessings on national life, with a truly religious fervour. Here national consciousness seems to be at its best and being spiritually infused puts on a sacred colour. The whole hymn is worthy of quotation in full, but it is too long to be reproduced completely. Only typical extracts are given as illustration—

“Truth high and potent law, the consecrating rite,
Fervour, Brahmā and sacrifice uphold the truth,
May she, the queen of all that is and is to be,
Prithivī make ample space and room for us.
Not over-crowded by the crowd of Manu’s sons, she
Who hath many heights, floods and level plains,
She who bears plants endowed with many varied powers,
May Pṛithivi for us spread wide and favour us.
In whom the Sea, the Sindhu and the waters, in
Whom our food and corn-lands had their being,
In whom this all that breaths and moves is active,
This earth assign us foremost rank and station.
On whom the men of old before us battled, on whom
The gods attacked the hostile demons,
The varied home of birds and kine and horses this,
Pṛithivī vouchsafe us luck and splendour.”²

Apart from this general praise, there are lines yielding beautiful patriotic feeling, an unoffending pride in the richness of the country and the religion of the nation, its men and women, and a fond attachment to home and

¹ R̥ig Veda, X. 75.

² Atharva Veda, XII, 1.p. 90. Griffith’s Translation.

... ..

Whereon men sing and dance, with varied
shouts and noise¹.

Further, they loved their institutions and never forget that their life was bound up with them. In praising their country these were naturally remembered as fitting places for the enjoyment of life's amenities. These were their assemblies, gatherings and meetings. The growth of a general admiring love for the native land with all that it contained is reflected in the excerpt below—

Thy many ways on which the people travel,
The roads for car and wain to journey over,
Thereon meet both the good and bad,
That pathway may we attain without foe or robber.
In hamlets and in woodlands,
And in all assemblages on earth,
In gatherings, meetings of the folks,
We will speak glorious things of thee,
Mild gracious, sweetly odorous, milky with
nectar in her breast,
May Earth, may Prithivī, bestow, her benison
with milk on us.²

Lastly a characteristic Hindu prayer "true to the kindred points of heaven and home", according to Professor R. K. Mukherjee,³ is supplied in the extracted stanza of the hymn under quotation.

"O mother Earth, do thou kindly set me down
well-established,
In concord with the heaven, O sage, do thou
set me in fortune and prosperity."⁴

¹ Ibid.

² Ibid.

³ Nationalism in Hindu Culture, p. 15.

⁴ Atharva Veda, XII. 1, Whitney's Trans.

In the *Manu Samhitā*, *Vishṇu Purāṇa* and *Bhāgavata Purāṇa*, an almost Jewish colour is found in the idea of the Fatherland. It is looked upon as "the chosen land" with intense feeling and deep reverence. "The *Manu Smṛiti* rises to a great height of emotional outburst in the passage in which it defines the limits of the country called *Brahma-Varta*, which is described as "the land created by the gods."¹ This proud sentiment is repeated in the *Bhagavāta Purāṇa*² and beautifully elaborated in another equally popular religious book, the *Vishṇu Purāṇa* where *Bhāratvarsha*, i. e., India, is extolled as—

The best of all countries, where it is only after many thousand births and the aggregation of much merit, that living beings are sometimes born as men—about which the gods themselves exclaimed—"Happy are those, who are born even from the condition of gods as men in *Bharatavarsha*, as that is the way to the pleasures of paradise or the greater blessing of final liberation. Happy are they who consigning all the unheeded rewards to the supreme and eternal *Vishṇu*, obtain existence in that land of works as their path to him. We know not when the acts that have secured us heaven shall have been fully recompensed, where we shall renew corporal confinement, but we know those men are fortunate who are born with perfect faculties in *Bhāratvarsha*".³

This high apostrophising marks an attitude of the Hindu mind comparable only to its natural religious tendency—Its spiritual outlook, intimately associated with its religious faith, inculcates equal homage to the gods and the mother country. Consequently it invests the mother

¹ Nationalism in Hindu Culture, p. 16 ; *Manu*.

² *Bhāgavata Purāṇa*, V. 9.

³ *Vishnu Purāṇa*, II, 3. (Mukherjee's adaptation)

country with divine character and position and reverentially surrounds it with the halo of the most sacred glory, and it is a precious heritage handed down by the patriot patriarchs of the ancient times. The people learned to look upon the country as mother by the poetic ascription of motherhood to it in the R̥ig and in the Atharva Veda, the Śatapatha Brāhmaṇa and the Mahābhārata¹ and the common saying that "the mother and the motherland are higher than heaven itself" is but the result of this spiritualised patriotism. Professor Mukherjee says truly "it is doubtful whether in any other literature of the world, we can find similar expressions of patriotism under which the solid material earth becomes transfigured and deified into a spiritual ideal, characteristic of the Hindu mind".² It is this idealistic tendency that accounts for regarding the country as Brahmā (God) and the body of the people as Viṣṇu (God)³ in the coronation oaths of kings. Generally the highest attribute of sacredness was studiously and consistently predicated of the country by the Hindu thinkers and patriotism itself had to pass through the idealising and spiritualising process of Hindu Philosophy.

The Ahimsa Ideal

Freedom was not the last word on the political ideal of India. The deeper side of political life, which is always unity in its expansive character, had its own value and importance since the Vedic time⁴ and political idealism had to join hands with morality and religion for

¹ R̥ig Veda, IV. 56 ; VI. 70 ; Atharva Veda quoted above ; Śatapatha Brāhmaṇa, V. 2. I. 25 ; see Hindu Polity II. p. 34 : Anuśāsana Parva 62, Udyoga Parva, 75. "Very early Heaven and Earth became endowed with human qualities such as "not decaying father and mother". Radhakrishnan, Indian Philosophy I. p. 76.

² Nationalism in Hindu Cul. p. 32. ³ See Supra, Theory of Constitution.

⁴ "Regard all creatures as friends"—Yajur Veda 183.

plenitude and fulfilment. The Buddhist conception of ahimsā, reinforced such idealism with deep ethical and wide social dynamic. In theory as well as in practice ahimsā is generalised to the utmost to yield the conclusion that the world is after all kith and kin. When this is done ahimsā touches politics at its most vital point and becomes the moral equivalent for war through negative non-injury and positive service. Military conquest has to cease logically and spiritual service takes the place of martial operation and violence. It is an unavoidable and in a sense inevitable conclusion and there can be no escape from it, once ahimsā is allowed sway over practical life,¹ which has then to express itself in thorough-going and uncompromising pacific principles.

*Political Ahimsa and "Pacifism"

But the ahimsā ideal and the theory on which it is based prevailed in India long before Buddhist and Jaina

¹ Its practical realisation is reflected in the Aśokan lithic writings, where the barbarity and brutality of applied politics are toned down under the dominating influence of morals and religion. The sweeping drift of thought moved on the unifying principle of the republican Śākya prince and not towards the armed imperialism of Chandra Gupta and Chāṇakya. Asoka struck the note of ahimsā and good-will amidst the still reverberating doctrine of diplomacy and conquest which raised the Maurya Empire to the zenith of its military glory. An unparalleled aureola of light was shed by this philosopher king round the country of his birth through his humane policy and wonderful activity. "There is no higher duty than the welfare of the whole world. Consider particularly the value of life...Let all live with less labour and beyond danger. All ought to try to go forward...otherwise there is probability of degradation. Excellent is abstention from slaughter (ahimsā) of all living creatures" (Rock Edict IV, Brahmagiri Edict, Minor Edict, Rock Edict III) Professor Bhandarkar has estimated Asoka's place in history thus—"Though an account of the missionary activity of Asoka, India, it appears, has been lost to nationalism and political greatness, she has doubtless gained in cosmopolitanism and humanitarianism, which are the basic principles of Hindu Society" (Aśoka, p. 247).

* This is put here for its theoretical treatment. For an account of Practical Ahimsā on a nation-wide scale see Appendix, Note 7.

religious ethics. It was common to orthodox Hinduism as well as to Jainism and Buddhism, though in an intensified measure in the last two faiths. The Bṛihad-āraṇyaka Upanishad laid down that "a man's religious gifts are austerity, generosity, rectitude and non-injury"¹ and was followed up by others. The Epic which carried the tradition declared "ahimsā to be the highest dharma".² Manu equated Ahimsā with immortality—"In ahimsā of beings immortality is found".³ The Epic has distinctly and pointedly shown the relation of all virtues to this cardinal quality of ahimsā; they are all contained in it which is their real culmination. "Just as the foot-marks of all other animals disappear in those of an elephant, so all other dharmas (virtues—kinds of righteousness) are merged in ahimsā".⁴ Naturally the ethical implications of such an ideal were magnified and enlarged to comprise all beings and every sphere of life.

In Jainism and Buddhism ahimsā held the supreme place and gradually permeated society and entered politics. Charitra (character) consists of ahimsā, sunṛita, asteya, brahmacharyya and aparigraha according to Jainism,⁵ which are all rooted in ahimsā. Meekness, non-resistance, restraint, temperance, seclusion and high thoughts make the religion of the Buddha, and he alone is said to be Aryan who does not injure other beings.⁶ Professor Das Gupta says—"Ahimsā may be generalised as the fundamental ethical virtue; and judgment on all actions may be passed in the accordance with the standard of ahimsā".⁷ "It is thus the highest virtue, the mother of all virtues...

¹ V. 2. 3.; Chhāndogya, III, 16, Tait. I. 9; Śāṇḍilya, I. 4; Varāha V. 16.

² Rājadharmānuśāsana Parva, 121; Mokshadharma Parva, 261. Anuśāsana Parva, 114.

³ Manu Saṁhitā, VI, 60.

⁴ Anuśāsana Parva, 114.

⁵ Dravyasaṁgrahavṛtti, 35.

⁶ Dhammapada 185, 270.

⁷ Hist. of Ind. Phil. p. 200.

the virtue of universal good-will and tenderness".¹ Professor Tachibana has pointed out that² "Its generic maxim, therefore, according to the Buddhist Ethical ideal, would in modern terms be: 'we ought not to hurt mentally and physically our fellow-creatures as well as our fellow men, but to love and protect them'.³ This is substantially at one with the Suttanipāta standard, viz., "cultivating an infinite loving feeling and being strenuous unceasingly night and day, let him (man) spread good will over all regions".⁴

That it effectively influenced politics goes without doubt, inasmuch as peace itself is a kind of ahimsā⁵ and may be logically subsumed under it. It expresses in the language of the Epic "the attitude of non-injury and the avoidance of strife", which fall under "the peace-path" or peace-ideal, and are equal to righteousness:—"actions filled with ahimsā mean righteousness done".⁶ The Epic is most elaborate on this point and even secular writers like Kauṭilya and Śukra are definite as to its utility and value. In the shadow of the martial genius of Chandra Gupta, Kauṭilya learnt the wholesome yet essentially practical lesson that "it is a sin to cause the loss of life on both sides"—"those who advise.....to brave danger, sin and violation of wealth are enemies under the guise of friends".⁷ There is an element of calculation in it, but the first assertion is categorical enough to the extent of being unlike the author of the Artha-Śāstra, or in short "un-Kauṭilyan". He adds further that "the collision of an unbaked mud-vessel with a similar one is destructive to both". Hence "one should prefer peace; for dis-

¹ Ethics of the Hindus, by S. K. Maitra, p. 221.

² Ethics of Buddhism, p. 184.

³ Cf. H. Sidgwick, Methods of Ethics, p. 239.

⁴ Suttanipāta, 507.

⁵ Karna Parva, 70.

⁶ Mokshadharma Parva, 259.

⁷ Artha Śāstra, p. 463.

advantages, such as loss of strength and wealth, sojourning and sin are ever attending upon war".¹ He is equally aware of the other stern fact of international politics that "no piece of iron, that is not made red-hot, will combine with another piece of iron".² Kāmandaka has repeated Kauṭilya's thought in the main in the following extract—

"The body, the wife, the friends, the wealth of a sovereign may cease to be of any avail to him within a wink's time, when he launches on war, in which there is every possible danger to his life. These again are constantly jeopardised in war. Therefore an intelligent sovereign should never wage war. What king, who is not a fool, would put his friends, his wealth, his kingdom, his fame and even his own life in the cradle of uncertainty by embarking on war?"³

It is in the Epic that the peace ideal rises to its highest, having separated itself from the ethics of expediency and the logic of prudence. An analysis of the military mind was possible for it, since its central theme was war of the largest dimension of the time. It found out the truth of the statement "hatred does never put down hatred",⁴ for "harm comes from harming others and good from doing good to others"⁵ The arguments against war may be summarised like this—

"War is caused by the heartless, who through evil intention collect soldiers and forge weapons in order to rob others of their wealth and property".⁶

"Do not wage war or otherwise be ruined".⁷ "The best way is to win by concluding peace.....the worst to fight to victory".⁸ "Who should be prepared to inflict

¹ Ibid, pp. 331, 333.

³ Nīti Sāra, p. 134.

⁵ Anuśāsana Parva, 113.

⁷ Bhishma Parva, 3.

² Ibid, p. 333.

⁴ Udyoga Parva, 71.

⁶ Udyoga Parva, 38.

⁸ Ibid.

the punishment of war, if danger can be averted by peace and gift" ?¹ "In this world forgiveness is unparalleled victory".² "The whole world is in his hands, who can through the quality of forgiveness disregard the ill treatment of others. He is fully successful in everything who does not inflict pain on being himself pained".³ The "sword of forgiveness" is proof against evil.⁴ Hence the Epic has designated "worship (respecting as opposed to hating) the non-ferric instrument of punishment".⁵ It is also called "the soft heart-piercing non-metalic weapon".⁶

Śukra in later times advised "subduing others by charity and simplicity"⁷ and war to be the last thing. "Where there is no other remedy *vigraha* (war) should be undertaken."⁸ It is also added in the Epic that "the victory, which is gained by war (by kings), is considered detestable in the assembly of the wise".⁹ "It is the duty of kings to conquer enemies without fighting", i.e. recourse to war;¹⁰ even though "war is adhered to when all efforts for peace have failed".¹¹

The process of the reasoning found in the Epic is just like that of the *Artha Śāstra*. It is first the palpable effects of war and then the conclusion coming out of such practical experience. The calculation of profit and loss is given below—

"Victory in war is really equal to defeat, since in warfare many loved ones are killed. Thus the victor's reputation, caste and strength as well as sons and brothers are destroyed, leaving remorse only.

¹ Udyoga Parva, 128.

² Ibid, 32.

³ Ādi Parva, 79.

⁴ Ibid.

⁵ Rājadharmānuśāsana Parva, 81.

⁶ Ibid.

⁷ Śukra Nīti, p. 119.

⁸ Ibid, p. 241.

⁹ Rājadharmānuśāsana Parva, 94.

¹⁰ Ibid.

¹¹ Udyoga Parva, 71.

Mostly the good and kind, the heroic and honest people die, but the bad men generally escape. Even if those that are unrelated are killed in war, the result is still great compunction of the heart.....And the man who has thus created enemies can scarcely sleep like one in a snake-infested room, The defeated remnant also try to collect strength.....and to extirpate the victor to his roots. Extirpation may give peace (negatively), but that is the worst barbarity. They are self-destroyed, who search for weaknesses for the destruction of others".¹

Further, this practical estimate is supported by a well-sustained logical rhetoric, which shows the hollowness of military psychology, as much as the low grade existence of those who live by fighting. No stronger condemnation of the military mind is available in the whole range of Sanskrit literature and nothing portrays so truly the utter degeneration of those who favour armed conflict. They are naturally compared to dogs, whose nature is acutely represented in them—

"The wise have indicated that the fighters are like dogs. The dogs first of all wag their tails, yell, move to and fro, snarl by showing their teeth to one another and then fall to fighting over a piece of meat. At last the strong defeat the weak and eat the bit of meat. Likewise men gain their wished-for object by fighting. The powerful disregard the helpless and thus pick a quarrel and the latter bow down before the former. Thus the fish eat up the fish, the dogs kill other dogs and the Kshatriyas destroy their kind, according to their own nature"²

The natural conclusion of such a view is that "Kali (the evil genius of the black age) is always present in the

¹ Ibid, 71.

² Ibid.

battle field—war is sinful any way it is looked at"; also logically "the Kshatriya-dharma (profession) is sinful".¹ Similarly Śukra says—"It (fighting) is not holy"² although it is the duty of the castes.

The Peace Path

"If (considerations of) victory and defeat are left out altogether and the way of peace is followed, happiness and rest begin to be felt (possible)"³ "It is righteousness to take the path of peace having given up himsā (harming) according to the learned sages."⁴ "Peace is powerful"⁵ and "worthy of worship".⁶ "By conquest hatred is increased and by hatred hatred is not destroyed."⁷

When the pros and cons of the whole argument are taken into account and strung together, the profit and loss well calculated, it tantamounts to saying with Kāmandaka—

¹ Ibid.

² Śukra Nīti, p. 101.

³ Ibid.

⁴ Mokshadharma Parva, 259.

⁵ Vana Parva, 28.

⁶ Ibid, 29.

⁷ Udyoga Parva, 71. Prof. Radhakrishnan in commenting on this passage has indicated the source of the idea, which was the key-stone of Buddhist ethics. "The Mahabharata has"—he says "echoes of the fine side of Buddhism". Again, "Buddhism has left a permanent mark on the culture of India". (Indian Phil. pp. 608, 609). The following Buddhist ideals may be compared with the Epic pronouncements—

"Hatred can never be overcome by hatred in this world, it can only be overcome by love, this is the perpetual law. The hatred of those will never cease who harbour ideas such as these—he rebuked me, he struck me, he conquered me or he robbed me". (Dhammapada, 3. 4 and 5; Vinayapitaka, I. 349; Jātaka, 111. 212). "Whosoever without resentment bears reviling, blows, and bonds, who has made patience his strong stay and support, him I call (real) Brāhmana". (Dhammapada, 399; Suttanipāta, 623). "There is nothing surpassing forbearance" (Samyutta-Nikāya, 623). Let a man overcome anger by love" (Dhammapada, 223). "He who by causing pain to others wishes to obtain pleasure for himself, will never be free from hatred being entangled in the bonds of hatred itself". (Dhammapada, 291).

"Taking into consideration the loss, the expenditure, the difficulties, and the destruction, etc., involved in war, and weighing seriously its good as well as evil effects, even the assailed king would rather do well willingly to submit to certain hardships, than launch upon war, for war is ever prolific of evil consequences."¹

The Hindu view is here emphatically economic and has no appeal to dharma or the law of righteousness. Aśoka saw it clearly as much as others, who gave thought to the subject after him. The pith of the argument is parallel to Mr. Angell's idea² and illustrates how it is safer to suffer from hardships than lose that security of life and property, without which the economic basis of the social order would disappear and be destroyed.

The definition of ahimsā shows its all-inclusive character ; it takes notice of all living beings with the deepest connotation and the widest denotation. "Not to hurt all beings with mind, body and speech is ahimsā"³. Its wonderful effect is equally all-embracing—"In the case of (firm) establishment of ahimsā, its very presence will remove enmity"⁴. The meaning is that when real and pure ahimsā is thoroughly practised, all leave their natural enmity simply by coming near such a person, e.g.

¹ Niti Sāra, p. 133.

² The Great Illusion, p. 91 quoted in Joad's Mod. Pol. Theory, p. 34. Mr. Norman Angell cuttingly remarks that "it pays men better to think and feel as members of the universal economic society whose attribute is peace, than to think and feel as members of limited political societies whose attribute is war". Kāmandaka never anticipated this modernised version of his 'own out-look'.

³ Nigamānanda's "Yogiguru" p. 58. "Manovākkāyair sarva bhūtānaṃ apīḍanaṃ ahimsā".

⁴ Pātañjala, Yoga-Sūtra, Sādhana Pada 33. "Ahimsā pratishṭhāyaṃ tatsānnidhyau vairatyāgaṃ".

even predatory animals as tigers and snakes. The man, who has fully realised the principle of ahimsā, is described to be "one who is never a cause of fear to any being and has no cause to fear any being."¹ The explanation belongs to the mystery of love. Deussen has shown that one has to love one's neighbour, because his neighbour is his very self according to the Upanishads.² The Epic remarks that ahimsā is possible when "all beings are considered as one's self".³ "He knows the essence of religion who is a friend to all with mind, body and speech : he attains to righteousness who has succeeded in giving up harming by self-restraint".⁴ "Ahimsā is", thus, "the only source of happiness".⁵ And "not to seek to harm others through mind, body and speech is the universal good".⁶

The real import and place of the principle of ahimsā in ethical thought and practice have not as yet been fully understood, and far less realised, in the West as well as in the East. It is also unfortunately losing its hold on and disappearing from the oriental mind. Only a few European authorities have noticed its importance and value. Eliot was one of the first to speak of it "as the glory of India" in his well-known book.⁷ It is so indeed, for moral speculation has nowhere reached such an absolute position and height, although its realisation is a different question. Its key note, as elucidated by Professor Radhakrishnan, lies in the fact that "no other independent ethic gives a more thrilling message of universal benevolencethe majesty of the good.....the flaming ideal of righteousness".⁸ It is the zenith of moral idealism.

¹ Mokshadharma Parva, 262.

² Phil. of the Upanishads, p. 47.

³ Mokshadharma Parva, 262.

⁴ Ibid.

⁵ Udyoga Parva, 32.

⁶ Anuśāsana Parva, 13.

⁷ Hinduism and Buddhism, II. p. 170. See Writer's article in the Young Men of India, August 1924.

⁸ Radhakrishnan, Indian Philosophy, I. p. 475.

Among all the socialising and moralising processes advocated by moral philosophy and social science, *ahimsā* as a principle, or as an ideal, will ever remain supreme for its comprehensiveness, universality and sublimity. Hopkins has said—"The ethics of non-injury may be extended to include self-sacrifice to prevent injury to another as in Buddhistic writings and to the thought of self-surrender which is prominent in the later religion of Buddha and of Rāmānuja ; or the process may be inverted and the moral value of self-sacrifice and self-surrender to God may precede all analysis and spring into being as a natural expression of love as in Christianity, so that West and East may meet by different ways on a common ground.....Yet it is in its whole scope that the Hindu ethics surpasses ours ; in the inclusion of the beasts and birds and even of the trees and flowers in its all-embracing tenderness and kindly sympathy....And we... may turn properly back with some humility to the time long before the Christian era, when so good and perfect a doctrine was not only preached as an ethical ideal, but was accepted by millions of people as the normal rule of life for every good man and confess, that however excellent our ethics may be, India has taught us something better than we knew".¹

In India *ahimsā* moralised politics and synthesised the individual, society and the world under the dominant idea of the respect for all life. Mr. Jinaradasa explains—"it is the conviction that it is possible for men to struggle in a world of competition and yet succeed by absolutely harmless ways, that it is possible to dominate the greatest things of life, not by outer force, but by an inner soul-force that wins without oppression".²

¹ Ethics of India. pp. 232-3.

² Meeting of the East and the West, p. 115. Cf. Schweitzer, Civilization and Ethics, pp. 271-2.—"True knowledge consists in being deeply impressed

Today all over India, Mahātmā Gandhi's appeal has gone home into the hearts of men, because of his reviving this noble doctrine as the summit of Indian ethical and social thought, and a thrill of reverent fervour is felt by all, when the appeal is made in the name of the ancient sages and their sublime teachings, so unlike what is happening in the world everywhere in negating the very best that is in man.¹ The Gītā Parva has rightly summed up the Ethics of the great Epic in one sentence—

“That kind of victory, which comes through truth, kindness and righteousness, is never gained by conquerors merely through power and prowess”.²

And Śukra has the wise saying that—“one should always master the world by love, service, affection, simplicity, charity, etc.”³ For truly—“the doers of good never enter ruin”.⁴

Quite a modern amplification of this old principle is given in W. Wellock's “Ahimsa and World Peace”, a book which combines the best thought of the East and the West on this subject of common interest. The line of approach

with the mystery that everything around us is will-to-live and in realising how guilty we continually are of offences against life.....To be ethical is more important than to be unegoistic. Only the reverence of my will-to-live for every other will-to-live is genuinely ethical. Whenever I sacrifice or injure life in my way I am not ethical, but rather I am guilty, whether it be egoistically guilty for the sake of maintaining my own existence or well-being, or unegoistically guilty with a view to maintaining those of a majority. Only that entirely universal and absolute purposiveness with regard to the maintenance and enhancement of life, which is the aim of reverence for life, is really ethical.

¹ “Mr. Gandhi's political doctrines and strategy appeal to something that is already in the people. The humanitarian doctrine of ahimsa seems to touch one of the most deep-seated sentiments of the Hindu heart. The passivity of the method of non-violent non-cooperation is probably in the tradition of Hindu political practice.....In Mr. Gandhi's appeal to the masses the deep has evidently called unto the deep, because he has given to them things “felt in the blood and felt along the heart”. (Pol. Philosophy of Gandhi, by M. Ruthnaswamy, p. 5).

² Gītā Parva, 21, 7.

³ Śukra Nīti, p. 114.

⁴ Gītā, 28, 30.

brackets "pacifism" and ahimsā together, and shows the positive side of both. "Herein lies the whole argument for ahimsā and pacifism. The pacifist knows that there can be no change of character or of conduct but through a change of ideas, and also that reason and good-will are the only agencies in a civilised age capable of affecting changes. Moreover, good-will never yet lost a battle, as it is not in human nature to do harm to those who obviously wish one well.....It is commonly assumed that non-violence is a negative principle, that the pacifist is one who would stand idly by, while an enemy took all his goods and killed all his relatives and friends ; he would even then oblige the tyrant by meekly becoming his slave. The pacifist is as keen a fighter as the militarist : (for) the pacifist resists evil quite as much as the militarist, but his resistance is intellectual, moral and spiritual, not physical ...He simply refuses to fight, as a rational being, what is an essentially moral and spiritual battle with physical weapons".¹

When generalised and thoroughly popularised the ideal changes its emphasis from the individual to society. It turns into the desire to see everybody prosper and to conserve all spiritual values. Universal good-will becomes the result of the personal realisation of ahimsā. The highest development of all and the more practical aphorism, the greatest good to the greatest number, may be gathered up in the standard of those, who laid down the principle of ahimsā for individual and universal amelioration—

"May all cross safely the difficult places of life, may all see the face of happiness, may all reach the right knowledge, may all rejoice everywhere".²

¹ Ahimsā and World Peace, pp. 8-9.

² Quoted in Hindu View of Life, p. 117 and Hindu Rājanīti, p. 70.

CHAPTER X

THEORY OF SOVEREIGNTY

The Doctrine of Danda

In popular language *danḍa* is the king's scepture, the emblem of royal authority. Philosophically it is hypostatized sanction and the very apotheosis of the power of the state. Its character is first metaphysical and then moral and social, and its imperativeness comes from its transcendental quality. In the Epic it is said to be "the root of all things" and "the author of states".¹ The Hindu theorists gave it, as Hegel did to the state, "a self conscious ethical substance and self-knowing and self-actualising individuality",² as set forth below and long before the formulation of modern social theories, they discovered the śāstric truth that "the principle of authority is an eternal support of human society".³ In fact they raised it to a comprehensive philosophical conception of great utility and in their hands authority became, "the central social category".⁴ The state cannot be what it is without *danḍa*, which is "the outward visible sign of a state seen in the presence of a supreme or independent coercive power".⁵ The doctrine, as a whole, turns on these characteristics and their implications.

Description of Danda

Danḍa is described as God, the supreme universal power, both mythologically and philosophically, thus

¹ Śānti Parva, 22, 17, 34 ; Vide Theo. of Govt. in Anc. Ind. pp. 38-39.

² Adapted from Joad, Mod. Pol. Theory, p. 13.

³ Adapted from Stein, Phil. Currents, Maitra's Tr. p. 543.

⁴ Adapted from Ibid, p. 556.

⁵ Adapted from Green, Political Obligation, p. 131.

making crudest thought and highest idealism meet in a strange manner. It is natural, because the problem of authority is ultimately theological and religious in the Hindu mind, and all authority is traced back to God. But a separation of myths of the Platonic type from theories of philosophical import is possible even in the vast mixture of different and even divergent materials. Yet it is difficult to say how far such mythological data formed the natural back-ground of philosophical thought. The former, however, would be accepted usually as the starting point in dealing with the subject.

The Mahābhārata speaks of daṇḍa directly as "the chief good"¹ and depicts it as "effulgent like burning fire and complexioned as the blue lotus" with numberless eyes and many limbs. It is "very terrible in appearance". Political ethics is said to be its wife (i. e. hand-maid), being a daughter of Brahmā² and the mother of the world.³ Manu's portraiture is simpler, where daṇḍa is shown to be "dark with red eyes"⁴ and the Epic has also the same picture elsewhere.⁵ The law-giver too makes a god of daṇḍa—"Prajāpati (the creator) created daṇḍa as his own divine son".⁶ It ought to be observed here that the ancient legislator is not so crudely mythological as the epic poet, so far as this description is concerned. Myth has been called by both in support of authority which they tried to explain. The close connection between the doctrine of daṇḍa and political science is

¹ Rājadharmānuśāna Parva, 121.

² Ibid. Daṇḍohi bhagavān vishṇurdaṇḍo nārāyaṇaprabhuh Yathoktā brahmakanyeti lakṣmīrvṛtīti sarasvatī Daṇḍanītirjjagaddhātri. See Dutt's Trans. II, p. 178.

³ Ibid, M. N. Dutt's Trans. II, p. 178.

⁴ Manu Saṁhitā, VII. 25.

⁵ Rājadharmānuśāna Parva, 50.

⁶ Manu Saṁhitā, VII. 14.

mythologically delineated in the Mahābhārata. "Daṇḍa was created by the god Śiva after long concentration and serious thought and the world-famous science of politics was made out of daṇḍa through the grace of Sarasvatī (the goddess of wisdom)".¹ Politics is thus born of daṇḍa, whose hand-maid (counter-part) is ethics in general.

Nature of Daṇḍa

The real nature of daṇḍa is philosophically absolute, as it is completely identified with God. "Daṇḍa is the very self of Viṣṇu-Nārāyaṇa (the supreme god)..... therefore it holds the highest position.....It is known by the eight names of lord, Puruṣa (supreme person), life, existence, mind, world-soul, being and Prajāpati (creator)".² Its metaphysical aspect is in this way adequately explained and it becomes more and more abstract under progressive analysis. Again, it may be looked at from a more specific stand-point. "The eternal daṇḍa is the soul of dharma (righteousness)",³ and "is dharma (righteousness) itself".⁴ "The whole universe is under daṇḍa".⁵ Manu's treatment in this respect is practically the same, as he holds the same view. Accordingly daṇḍa is "full of the splendour of Brahmā (the creator)".⁶ It is the "Puruṣa (the male principle), the leader (initiator), the real governor and king, and the guarantor of dharma (righteousness) and the four āśramas (stages of life).....the wise call it dharma".⁷

The most remarkable statement about the divine nature of daṇḍa and its essentially idealistic conception is found

¹ Rājadharmānuśāsana Parva, 121.

² Ibid.

³ Ibid, 50.

⁴ Ibid, 51, 121.

⁵ Ibid.

⁶ Manu Saṁhitā, VII, 14.

⁷ Ibid, VII, 17, 18. Cf. Buhler's Trans. in S. B. E. XXV. pp. 216, 218.

See, Chap. I, Theory of the State.

in the Gīta. Daṇḍa is identified in the Gīta, although a purely religious poem, with the very absolute, in the words of Kṛishṇa, where as the incarnation of God he says—

“I am the daṇḍa of the repressor, the policy of victors, the silence of secrecy, the knowledge of the wise”.¹

Daṇḍa consequently becomes the underlying principle of the world, material as well as spiritual, since the former always depends on the latter in Hindu thought. Professor B. K. Sarkar has remarked—“Daṇḍa, as interpreted by Manu” (as well as by the Mahabharata, let it be added)—“is obviously the very principle of omnipotence, comparable to the *majestas* of Bodin or the *summa potestas* of Grotius”.² Technically it may be equated with the “*Probhāva*” or “*prabhu-s’akti*” of Kāmandaka³ issuing out of the exercise of the royal daṇḍa—also recognised by the Epic and the Nītivākyāmṛitaṁ.⁴ This metaphysical character of daṇḍa explains its authority or in other words, as said above, gives it its authority. Professor Gettell has consequently observed, adducing the same comparisons, that “the Hindu theory of sanction corresponds closely.....to the modern concept of sovereignty”.⁵

Function of Daṇḍa

The functions of daṇḍa are in full accord with its transcendental and absolute nature involving ethical and

¹ Gītā, X. 38.

² Pol. Theo. & Inst. of Hin. p. 201.

³ Nīti Sāra, pp. 6. 193. “Prabhāvāditi prabhuśakteh” “Sacha daṇḍa-dhāranādāvirbhāti”. (Saṅkarāya’s Jayamaṅgala Commentary in Ganapati Sastri’s Ed. of Nīti Sāra, p. 2). Vide Supra, Chap. I.

⁴ Mokshadharma Parva, 321 ; Nītivākyāmṛitaṁ, p. 322, vide Supra, Chs. I, IV, VIII.

⁵ Hist. of Pol. Thought, p. 27.

social implications. "Daṇḍa is ever wakeful".¹ It "protects and governs, waking alone when all are asleep".² Manu has a closely parallel passage showing the similar operation of daṇḍa. It "rules all people, protects them and wakes when they are asleep".³ "It saves dharma (righteousness), artha (wealth), and kāma (object)". "It is established for dispelling darkness (caused by ignorance), for unprotected by daṇḍa all indeed fall into deep darkness".⁴

Ethically its action is equally important—"Daṇḍa judges between right and wrong (i. e. divides the good from the evil).....nothing could be known (distinguished) without it. Even atheists have to follow it.....Where daṇḍa is present no sin or deception can exist".⁵ "Dharma (righteousness) is really well applied daṇḍa",⁶ for it "is ushered in for setting on foot sound morality".⁷ Its social significance chiefly concerns politics, of which it is the central doctrine, supplying it with its authority and power. "Daṇḍa is meant for putting the people into good ways. Brahmā has shown the daṇḍa-shaped dharma for setting men to their respective duties". Therefore it "takes the form of the Kshatriya (the ruling class) in the world".⁸

Daṇḍa is created for keeping up (due) distinction of the castes and without it everything will surely go out of order. Through daṇḍa people secure heaven and live in heavenly bliss by discharging their own duties.⁹ Manu has declared that "the whole world is rectified by daṇḍa and even the gods and the demi-gods are subject to its authority".¹⁰ "Through it they are all enabled mutually to enjoy the world without straying away from their own parts (sva-dharma)".¹¹ Social order and morality are so

¹ Rājadharmānuśāsna Parva, 121.

² Ibid, 50.

³ Manu Saṁhitā, VII. 18.

⁴ Rājadharmānuśāsana Parva, 50.

⁵ Ibid.

⁶ Ibid, 122.

⁷ Ibid, 50.

⁸ Ibid. ⁹ Ibid.

¹⁰ Manu Saṁhitā, VII. 22, 23 ; Sarkar's Trans.

¹¹ Ibid, VII. 15.

intimately connected that they cannot be separated from each other. Morality means both inward and outward morality combined with the purity of heart and the fairness of dealings, but above all the discharge of duties. The observation of Professor B. K. Sarkar is very appropriate and expressive. He says "indeed it keeps all created beings to their respective duties (sva-dharma), the "virtues" of Plato or the "functions" of Bradley and other Neo-Hegelians, and makes them co-operate to the enjoyment and happiness of mankind".¹

Empirical View

The empirical view of *daṇḍa*, as it is noticed in the Epic in some passages connected with the main drift of its philosophical speculation, is worthy of careful consideration and separate treatment, since it furnishes a different stratum of thought. Accordingly it is found that *daṇḍa* is defined as "that by which everything is brought under control in the world".² "It is named *daṇḍa*, because it bends and punishes—it bends the haughty and represses the proud".³ "It is made for controlling the wicked...and is ever present in human society in all the three ages...and rules the world like the old grandfather".⁴ It rises out of *vyavahāra* (customary law). "There is no doubt", says the *Mahābhārata*, "that *vyavahāra* is the root of *daṇḍa*" and it "is *vyavahāra* itself" and as such it resides in the king

¹ Pol. Theo. & Inst. of Hindus, p. 201.—Similarly referring to the sovereign power of the state in Western Political Theory, Laski says "this authority (i. e. 'of the State's will') has not merely a legal pre-eminence but also a moral pre-eminence, as the fountain of social peace.....It is the assumption of the classic theory that the ultimately unifying authority must be supreme just because it unifies". (Grammar of Politics, pp. 248—249)

² *Rājadharmānuśāsana Parva*, 121.

³ *Ibid*, 50.

⁴ *Ibid*, 121.

(Bhūpāla-nishṭha).¹ This inter-relation between daṇḍa (authority) and vyavahāra (law) introduces the distinction between de jure and de facto sovereignty. The birth of daṇḍa from law and its merging in law are but the two stages of sovereignty—one established by law and the other establishing law. When law is its cause daṇḍa is de jure, but de facto when law is its effect. Their relation is reversible. That is authority issues from law and again law issues from authority. Then the Austinian position is reached by making authority determinate in the ruling head (bhupala-nishṭha).

Daṇḍa is the source of politics as shown before,² because the question of its just and proper application necessitates a science. "All the works of the world are carried through it".³ Kauṭilya has made all the sciences depend on daṇḍa, as will be seen later on, which practically comprises every type of human activity.

Forms of Danda

The material counter-parts, or the forms, of daṇḍa in the world, are any and all instruments for inflicting punishment. The Mahābhārata has it represented by all the weapons of war and attack prevalent at the time. "Daṇḍa puts on the forms of all the weapons—it pierces and presses some, strikes and fells others; it tears off some and cuts others to pieces".⁴ In fact it is the sum total of all the weapons that are or may be in use. In this connection fourteen principal weapons have been mentioned by the Epic as the forms of daṇḍa.⁵

Secular writers like Kauṭilya, Kāmandaka and Śukra have shown the significance of daṇḍa by defining it carefully and scientifically. It is true they have not theorised

¹ Ibid.

² Ibid.

³ Ibid

⁴ Ibid.

⁵ Ibid. See Theo. Govt. in Anc. Ind. p. 89.

about it like Manu and the author of the Mahābhārata, but their definitions show the practical outlook they had on this point. According to Kauṭilya

“That sceptre, on which the well-being and progress of the sciences of Anvikshiki, the triple Vedas and Vārtā depend, is known as daṇḍa. Never can there be a better instrument for bringing people under control”.¹

Very large scope has indeed been given to it by Kauṭilya. It becomes in his hand the central spring for everything. Lastly it has been used by all in the sense of a comprehensive instrument for war, as daṇḍa means war, that is applying daṇḍa for punishment to an enemy-state. Even then it is also equal to control and restraint in general. Kāmandaka finally remarks—

“The subjugation of the unsubjugated and their chastisement is daṇḍa’. Daṇḍa is known to signify subjection”.²

Śukra has given the shortest definition from the standpoint of its use in society and its most common and effective application. He says—“Daṇḍa is restraint and punishment”³.—since “men as well as beasts have to be governed by adequate daṇḍa”,⁴ following what has already been said of it in the epic and other books on law and politics. Daṇḍa as one of the four elements of policy, implying war to be the last of all, had already the recognition of all writers. This four-fold policy is composed of sāma, dāna, bheda, and daṇḍa (reconciliation, gift, division and war).⁵

Combining both the views considered before, it is noticed that the authority wielded by the state is re-

¹ Artha Śāstra, p. 9.

² Nīti Sāra, pp. 208, 19.

³ Śukra Nīti, p. 22.

⁴ Ibid, p. 235.

⁵ Śukra has “peace, purchase, partition, penalty” (Śukra-Nīti, p. 128.) See Ch. 17, “Inter-national Relations”.

presented in *daṇḍa*, which is thus practically the very essence of the state and which is by nature divine in one case and metaphysical in the other. But its object remains the same under all circumstances, namely, preservation of society, repression of wickedness and performance of duties. Professor B. K. Sarkar says "it is the abstraction of that power, whose concrete embodiment is *aiś'varya* or *svāmitva* or sovereignty in a state, and which is explained by Figgis as the real divine right of kings". It is "absolute with jurisdiction over all uncontrolled by any entity".¹ In fact the removal or the disappearance of this *daṇḍa* is followed by the symptoms of the non-state, of the negation of society and therefore of anarchy, when property ceases to exist, laws vanish, righteousness dies, caste-mixture begins and confusion sets in, and reversion to the "*matsya-nyāya*" (logic of the fish) becomes the certain result.² Here the dire consequences are but the same conditions as necessarily brought in the state, which again eliminated them by establishing order and security, through the force and operation of unavoidable social logic.

The theories of the state and kingship naturally impinge on the doctrine of *daṇḍa* as the hinge to turn upon or the sanction which supplies to them power and authority. The state is what it is because of *daṇḍa*, or the power to coerce, restrain and punish according to need. In other words it has the directing capacity, pre-supposing a judgment of value and its sanction in the shape of *daṇḍa* is ultimately based on it. On this ground it is connected with *dharma*, or the ideal of righteousness, applied equally to the state and the individual. *Daṇḍa* is not merely punishment or coercion, for it has a supreme purposiveness inlaid in it, as the guarantee of universal happiness and

¹ Pol. Theo. & Inst. of Hindus, p. 201.

² *Rājadharmānuśāsana Parva*, 50, 121.

righteousness.¹ The Hindu students of political theory set a high premium on the institutions and conventions that make up the artificial thing called civilisation. It is to educate men out of the deplorable mire of primitive license and beastly freedom that government has been instituted, say they. The state is designed to correct human vices or restrain them and open out avenues to a fuller and higher life. And all this is possible because of *daṇḍa* only.²

The assumption is naturally pessimistic in taking for granted the devolutionary tendencies of society, when anti-social instincts are prominent and powerful, which have to be transformed in the interests of stability and progress. Dr. Beni Prasad says "the severity of punishment and government keeps pace with the deterioration of human nature".³ Its other side is the strong belief in the education of human nature and the potential improvement inherent in every man under suitable circumstances.

Mythological History

A long mythological history is attached to *daṇḍa*, and this serves the useful purpose of clarifying the conception more concretely. After its creation by Śiva (generally supposed to be the god of destruction), it was given to Viṣṇu (the god of preservation), who made it over to Aṅgira and others. Thus it went to Marīchi, Bhṛigu, the sages and the protectors (*Lokapālas*). Khup had it from them and transferred it to Manu. Manu in his turn gave it to his sons, in order that they might know the

¹ Śānti Parva, 122, 34-35 Vide Beni Prasad, *Theory of Govt. in Anc. Ind.* p. 39.

² *Pol. Theo. & Inst. of Hindus*, p. 200.

³ *Theo. of Govt. in Anc. Ind.*, p. 39.

subtle cause of righteousness (dharma). In this way danḍa was established in the world by Manu.

The abstract side of danḍa—viz. sovereignty and rulership—has been illustrated in the same mythological strain. Thus Indra was given the charge of the gods, Yama of the ancestors, Kuvera of wealth and the Rākshasas, Vaśishṭha of the Brāhmaṇas, etc. Similarly rulership came down from Indra to Agni, Varuṇa and other eternal gods. The Brāhmaṇas had it from the gods. "The Kshatriyas having obtained the charge from the Brāhmaṇas are now ruling the people according to righteousness (dharma)". Such is the account in the Epic,¹ condensed for the sake of convenience.

It seems to be quasi-historical matter handled by the orthodox writers for their own theories and mixed up with the fanciful stories about the origin of the authority denoted by danḍa. Reading between the lines, it becomes quite clear that this authority was held by individuals as well as by groups, like those of the sages, the protectors and the Brāhmaṇas. The last stage is that of the Kshatriyas, until individual kings become the repositories of the power.

The Paradox of Danda

The Epic gives, in a number of almost unintelligible passages, the character of danḍa made up of antithetical and contradictory terms. It is difficult to make out the purpose underlying such a description of its nature. That it has some meaning is undoubtedly true and its well balanced diction shows that in its own time it conveyed an import probably lost at present.

The Mahābhārata states that "the most powerful danḍa

¹ Rājadharmānuśāsana Parva, 122.

is (present) with all beings—the gods, the sages, the manes, the rākshasas, the yakshas, piśāchas, sādhyas and even the birds”,¹ including all beings with good as well as evil nature. In plain language it is equal to saying that every creature in the world has the power to attack or strike in defence or in revenge.

To the question what this power is after all, the reply is given in pairs of opposite and antagonistic ideas, or in short antonyms used for *daṇḍa*. “Thus “*daṇḍa* is of many forms such as—righteousness and unrighteousness (*dharma* and *adharma*) wealth and poverty (*artha* and *anartha*), happiness and sorrow, strength and weakness, prosperity and adversity, merit and demerit, virtue and vice, success and failure, joy and confusion, anger and peace, chance and persistence.....salvation and bondage, fear and safety, harm and harmlessness, intoxication, infatuation, haughtiness, pride, patience, good policy, bad policy, power and frailty, victory and defeat, faith and distrust, gain and loss, good time and bad time, opportunity and difficulty, good work and bad work, love and hatred, shame and shamelessness, power, wisdom, word, strength and vision”.² These are evidently nothing but the channels through which *daṇḍa* works and its visits may be in any one of these shapes according to circumstances. Whether justly or unjustly it can strike and produce the desired effect. It is abstract coercive power operating through any medium or form unrelated to an end or object ; it is good when used in

¹ *Rājadharmānuśāsana Parva*, 121.

² *Ibid.* “*Arthānarthau sukhaṁdukhkhaṁ dharmādharmau valāvale. Daurbhāgyaṁ bhāgadheyañcha puṇyāpuṇye guṇāguṇau. Kāmākāmaṁvṛiturmāsaḥ sarvari divasaḥ kṣaṇaḥ, Apramādaḥ pramādaścha harṣhakrodhau śamodamah. Himsāhimse tapo yajñāḥ saṁyamotha vishāviṣaṁ. Madah pramādo darpaścha dambho dhairyaṁ nayānayaṁ. Aśaktiḥ śaktirityevammanastambhau vyāvāyayau (abridged).*

See M. M. Dutt's *Trans.*, II. p. 178 for slight variations.

a good way and bad when used in a bad way. This height of relationless abstraction puts it down as mere force, blind in itself, but useful to proper manipulation. In the *Gītā* even the Absolute is described on similar lines.¹ Further it is shown that punishment can come in any shape in the fulness of time, as due retribution from God, which may take all suitable and convenient forms for the purpose of catching the wrong-doer at the exact and the most opportune moment, when he deserves to be taken notice of. The Epic account also admits this interpretation, which will philosophically agree with the *Gītā*.

Danda and the King

“A ruler in office personifies this *daṇḍa*, but the ruler, as a person, is subject to it as every other individual.”² The ruler or the king is, therefore, called “the holder of *daṇḍa* (sceptre)” — “*daṇḍa-dhara*”³ or even more directly “*daṇḍa*” itself. Both *Kāmandaka* and *Śukra* have used this appellation to denote the nature of the office of kingship.⁴ The identification is indeed based on the fact that authority, whether it is considered originally divine or mere abstraction of social usage, is transferred to the king, who represents it in the world for the purposes of justice and righteousness. Jolly considers it “an essential attribute of royalty.”⁵ This very supposition is tacitly uniform and constant in Hindu politics in general. The king presides over the state and regulates it by wielding this great weapon of punishment, which is after all the sole instrument of sovereignty. Consequently it is no wonder that this *daṇḍa* was idealised by Manu to the

¹ *Gītā*, X. 32-40. ² *Pol. Theo. & Inst. of the Hindus*, p. 201.

³ *Ibid.*, also Jolly, *Hindu Law & Custom*, p. 280.

⁴ *Nīti Sāra*, pp. 19, 23. *Śukra Nīti*, p. 22. *Vide Supra*, pp. 10 & 8.

⁵ *Hindu Law & Custom*, p. 263.

highest, as the very source of the state, on the method of Austinian abstraction, and was ultimately given the position of the guarantor of all social good.¹

But the use of *daṇḍa* does not make the ruler in any sense infallible, nor does its application fall on the people alone. The universal authority assigned to it commands everything in the world, according to the doctrines which stand at its base. Its double operation is indicated in the significant epithet, "a two-handed engine" cutting both ways", in Professor B. K. Sarkar's apt description of its nature.³ As it extends its sway over the people, it equally brings the king under its control ; there is no exemption nor exception in both cases. In reality its action is much severer and more drastic on the head of the state.

It is indeed "a terror to the people and a corrective of social abuse" since without it, as already illustrated, no system will remain intact. The *Mahābhārata* has said, "if there were no fear of *daṇḍa*.....everything would have been desecrated, rules and laws would have disappeared, everybody would have taken forcible possession of everything as his own", etc.⁴ The same idea has been given by Kāmandaka in a different way—"In this world, where beings are related to one another as food and consumer, when proper chastisements are withheld, the exertion of a king to keep his subjects under control becomes as futile as those of an angler trying to catch fish without the help of a rod."⁵ "Through fear of punishment subjects become virtuous, do not commit aggressions and do not speak untruths."⁶ Śūkra's observation that "*daṇḍa* is the great

¹ See Supra, Origin of State, Ch. I.

² It is a Miltonic phrase from *Lycidas*.

³ Pol. Theo. & Inst. of Hindus, p. 201,

⁴ *Rājadharmānuśāsana Parva*, 50. ⁵ *Niti Sāra*, p. 24.

⁶ Śūkra Niti, p. 130.

stay of all virtues"¹ sums up the efficacy of *daṇḍa* on society at large. Even the king is said to go wrong, when *daṇḍa* is suspended.²

Nemesis of Danda

Again, *daṇḍa* "carries with it its own nemesis",³ for it is the most potent instrument of danger to the ruler himself and the powers that be. In this sense it is "the bulwark of people's rights."⁴ The maladministration⁵ of *daṇḍa* may mean anything from deposition to regicide. In such cases *daṇḍa* which coerces the people turns on the king himself. The same authority, which protects society against the unsocial actions of its ordinary members, condemns and punishes the ruling member in his position as protector, when unlawful aggression of any kind threatens common interest. Manu has pointed out most emphatically that—

"The most powerful *daṇḍa* cannot be exercised by unpurified souls. It strikes with family and friends the king who strays away from righteousness. The monarch who applies *daṇḍa* properly prospers with the three elements (of wealth, success and religious merit). But the covetous, haughty and mean ruler is destroyed by *daṇḍa* itself."⁶

In the opinion of Kāmandaka, who has no metaphysical bias like that of the law giver, but a practical forecast of results, "the wrong application of *daṇḍa* leads to the fall of the rule."⁷ The power of *daṇḍa* actually represents here

¹ Śukra Nīti, p. 131.

² Rājadharmānuśāsana Parva, 65.

³ Pol. Theo. & Inst. of Hindus, p. 202.

⁴ Ibid.

⁵ This will naturally include many points discussed under the chapters on "Resistance and Revolution" and "Principles of Punishment", but they are not legitimate parts of this section.

⁶ Manu Saṁhitā, VII. 26, 27.

⁷ Nīti Sāra, 11, 39, p. 24.

strict justice to all—to the ruled as well as to the ruler—and “hence the dilemma of royal power in Hindu theory” according to Gettell.¹

The manipulation of *danḍa*, meaning in truth the art of governance and the methods and means of state-craft, is not an easy task. It postulates long and careful training as well as wisdom and righteousness. Manu’s advice on this subject is the result of mature legislative experience. No Hindu political writer has been so categorical on the fitness necessary for handling the royal *danḍa*. He states explicitly that—

“It cannot be used properly by a king who is foolish, covetous, of untrained intelligence and without assistance.”²

Again—

“That king is able to wield it, who is pure, of true words (i.e. promises), courageous, and observant of the sacred scriptures.”³ “He only, who is qualified himself, is fit to wield the sceptre.”⁴

The *Mahābhārata*, speaking of the science of politics, has taken special care to mention the fact that it is dangerous in the hands of an unrighteous king, the assumption naturally being that in all practical things, apart from abstract theories, the personal element plays a very important part. The line in the Epic is as follows—

“*Danḍa* is supreme in the royal dharma (political ethics)”⁵ “That dharma (the conduct of the ruling Kshatriyas and therefore the science of it) falling in the hands of the unrighteous, produces the harmful fruits like the destruction of men.”⁶

¹ Hist. of Pol. Thought, p. 27.

² Manu Saṁhitā, VII, 30.

³ Ibid, VII, 31, p. 350.

⁴ Niti Sāra, p. 30.

⁵ Rājadharmānuśāsana Parva, 57.

⁶ Ibid, 121.

The education of the king is for this reason an ever important chapter in almost all works on Indian politics.¹ The Hindu politicians aimed at raising royal sages (rājarshīs) or philosopher kings, for the Hindu had to face the same problem as Socrates, when he pointed out "until either philosophers became kings, or kings philosophers, states will never succeed in remedying their short-comings"² It is such education that was considered necessary by the ancient Indians and the Greeks for safeguarding the state against the danger of its being under the influence of interests not identical with the general welfare of the community. Even Mill has conceded that "the entire business of Government is skilled employment",³ where, let it be added, character is equally, if not more, important as intellectual and practical capacities. Actually character brings with itself an ethical quality highly prized by the Hindus and the Greeks. Kauṭilya with a keen eye to the value of careful training observed like Plato⁴ that—

"The king, who is well educated and disciplined in sciences, devoted to good government of his subjects and bent on doing good to all people, will enjoy the earth unopposed"⁵.

Utility of the Doctrine

"By the doctrine of daṇḍa, then, the whole state is conceived as a padagogic institution, or moral laboratory,

¹ Dr. N. N. Law's "Aspects of Ancient Indian Polity" has an excellent chapter on the "Education of the Prince", which gives all the information necessary for forming an idea of the importance of the topic from the standpoint of political science.

² Cited in Science of Law by K. Garies, Intro. 1. Cf. Plato's "Guardians of the State" (Republic, VI)

³ Mill's Rep. Gov., p. 243, Everyman's Library.

⁴ Republic, p. 201, G. T. Series.—"Can you hesitate to entrust such characters with the sole management of the state affairs when time and education have made them ripe for the task?"

⁵ Artha Śāstra, p. 11.

so to speak, not necessarily a Lycurgan barrack of course"¹. is the comment of Prof. Sarkar. It becomes an organisation with a definite purpose,—one through which men can grow to the best and highest, vices and weakness being gradually suppressed and eliminated, and *danḍa* is its great and powerful reagent. Its authority represented in *danḍa* is not blind, not coercion for the sake of coercion, but has the clear-cut direction which is its end and *raison d'être*. Man has to yield to this authority, (or sanction), for the sake of *dharma*, his own highest ideal, in order that it may be ensured by the state and in the state. The state is in this sense a "necessary institution", while *danḍa* gives vitality and expression to it.

Again, *danḍa* may be said to bring into existence the well regulated and properly co-ordinated civil association called society by recognising rights and duties, property and law, and guarding and enforcing them, whenever necessary. It is behind *mamatva* (mine-ness or proprietary rights) and *dharma* (righteousness—duty and law), for these require, as on previous explication, some sanction and authority to stand upon. Moreover this authority (*danḍa*) being in play changes non-state into state, mere living mass into society. Professor B. K. Sarkar has appropriately spoken of *danḍa* as "the efficient cause of the state in Aristotelian terminology" and of government as "by nature coercive" since man's nature is not perfect². Dr. Beni Prasad says—"Behind all this philosophy and mythology of coercion lies the conviction that man is essentially low, vile and selfish and can be kept, only with difficulty and harshness, on the straight path"³. It is practically the originator of property, law and punishment in its character of social authority or moral sanction. It is like "the crown"

¹ Pol. Theo. & Inst. of Hindus, p. 203.

² Ibid, p. 203.

³ Theo. of Govt. in Anc. Ind. p. 39.

—to use Coke's phraseology—"an hieroglyphic of the laws".¹ As such whatever may be the theory concerning *daṇḍa*, man cannot be without a state, as much as the state would be nothing without power.

A short note (No. 8) on the Popular and the Legal aspects of sovereignty is to be found in the Appendix.

CHAPTER XI

PRINCIPLES OF PUNISHMENT

Motive and Procedure

Punishment is in practice the operation of *daṇḍa*, whenever and wherever it is needed as retribution, restraint and reformation. It is thus a logical corollary of the doctrine of *daṇḍa*, (the authority of the state), which is the measure of its actions. Although in its earlier phases it is naturally mixed up with religion and morality, when law itself participates in the same character, its meaning and force are never lost to view. In fact its function is seen clearly even in its most rudimentary form. Its sacerdotal aspect is nevertheless important, which connected it closely with religion and morality, for it is but a few steps behind the belief the punishment is ultimately in the hands of God here and hereafter. The age-long conviction has been that—"In three days, three fortnights, three months or three years actual desert is met with in this very world of superlative sin or merit."² This is because of the presence of cosmic justice in creation. It is not surprising, since even today "the most exalted moralists would have preferred to reserve punishment to God and to treat crime

¹ Quoted in Gierke's *Pol. Theo. of the Mid. Age*, Intro. p. XXXVII.

² *Tribhirmāsaiḥ tribhirbarśaiḥ tribhirpakśaiḥ tribhirdinaiḥ Atyuṣṭakṣaiḥ pāpapuṇaiḥ phalaibaiḥamasnute*—*Hitopodeśa*, *Mitrālābha*.

as sin.”¹ This religious attitude had much greater importance to man in his early days in determining his penal notions and explaining them as well.

Punishment as Retribution

In the Vedic time punishment was retribution from heaven for the transgressions of men. Instances are profuse in the *Rig Veda*, illustrating the simplest conception of punishment, self-evident as the effect of evil actions, unavoidable and experienced at every step, for breaking the laws of the gods and going against the moral order upheld by them. A few lines are given below to show how directly punishment is associated with the wrath of the immortals,

“Whatever ordinance of thine, God, Varuṇa, we violate, As human beings day by day, Yet to the stroke subject us not, Death-dealing of the angry one, The wrath of the incensed one.”² “Whatever wrong against the heavenly race we do, Being men, O Varuṇa, whatever law Of thine we have broken through thoughtlessness, For that transgression do not injure us, O God.”³

The retributory idea was extended to all mishaps and calamities and it was natural enough to assign them all to the supernatural working in and through the natural. Kaegi says, “the hymns strongly prove how deeply the prominent minds in the people were persuaded that the eternal ordinances of the rulers of the world were as inviolable in mental and moral matters as in the realm of nature and that every wrong act, even the unconscious, was punished and the sin expiated”.⁴

¹ Adapted from Vinogradoff, *Common-Sense in Law*, p. 243.

² *Rig Veda*, 1. 25, 1-2 ; Griswold's “*Religion of the Rig Veda*”, p. 126.

³ *Ibid*, VII, 89, 5 ; *Ibid* p. 126. ⁴ Kaegi, *Rig Veda* (1886), p. 18.

Oath and Ordeal

Another way of ascribing punishment to God is the trial by ordeal, which is a much later system, partly religious and partly political. It presupposes the faith that all guilt is punished by God, while innocence is vindicated. Jolly says "the divine judgment is based on the belief in the direct intervention of the deity in order to expose the guilt or to vindicate the innocence and to expiate for the violation of law".¹ In place of the infliction of punishment through human agency it is left to divine action; the human part is to force the offender to take the trial by ordeal in default of other methods to suit the circumstances.

The simplest form of divine judgment, consisted in a Verbal Oath, which is "virtually an ordeal" in Hopkins' opinion, "as the oath invokes divine power that punishes the guilty".² Misfortune and degradation were brought down on the man who took an oath falsely or on his dearest and nearest ones in consequence of it. Jolly has pointed out that the "oath formula" comes down from the Rig Veda (7, 104, 15) and is found frequently in later periods.³ But between oaths and ordeals there is only a difference of degree and not of quality.⁴ Nārada says—

"Thus have oaths been proclaimed by Manu for trifling cases. In a suit concerning a heavy crime, divine test should be resorted to".⁵

A Brāhmaṇa is to swear by truth, a Kshatriya by his weapons, a Vaiśya by the gods and good deeds.⁶ In the Mānava code oath is recommended by Manu in the absence

¹ Hindu Law & Custom, p. 310.

² Nārada, I. 239-247, S. B. E. XXXIII, p. 97, 98; Camb. Hist. of Ind. I. p. 282.

³ Ibid, p. 311.

⁴ Ibid, p. 312.

⁵ Nārada, I. 150. (S. B. E.); Brihaspati, X. 7. (S. B. E.)

⁶ Ibid, I. 148. X. 6. (S. B. E.)

of witnesses¹ Mr. Jayaswal says—"This indicates the nature and origin of oath. It stood on the same footing as an ordeal or ordeal was only a form of the oath"²

According to Ludwig³ the earliest forms of ordeal may be, as in the R̥ig Veda, by fire, water and single combat, or by red hot iron (i.e. hatchet) as in the Atharva Veda. Weber also holds the same view.⁴

(a) "Let not the wood ten times piled up consume me". (b) "The most maternal streams have not devoured me". (c) "When Tṛitna would cleave my head asunder, The dāsa wounded his own breast and shoulders".⁵ (d) "Felled with a hatchet the man who marred this my plan and purpose".⁶

The above are examples of the trial in the Vedic period, but more detailed treatment is met with in the law-books, where it is called "the divine test" in the language of Yājñavalkya. Any man refusing to take it, if charged with crime, established his own guilt *prima facie*. Āpastamba, Yājñavalkya and Viṣṇu recognise this method of trial and punishment by means of fire, water, poison, balance and sacred libation.⁷ Yājñavalkya applies it "in case of very serious crime, when the accused agreed to accept the punishment, if his complaint is not proved"⁸; Nārada is for it "where there is reason for it, but not otherwise."⁹ Viṣṇu and Nārada give very careful directions as to the time and circumstances for the applica-

¹ Manu, VIII, 110.

² Manu & Yājñavalkya, p. 135.

³ Der R̥ig Veda, IV. p. 44.

⁴ Referred to in Griffith's Trans. of the Atharva Veda, Part 1, p. 55.

⁵ R̥ig Veda, 1. 158, 4-5, p. 210. Griffith's Trans.

⁶ Atharva Veda, 11. 12. 3. p. 55. Griffith's Trans.

⁷ Āpastamba, 11, 2, 3, Yājñavalkya Samhitā, 11. p. 80; Viṣṇu Samhitā, IX. p. 841.

⁸ Yājñavalkya, 11. p. 80. ⁹ Nārada, I. 958, S. B. E. XXXIII, p. 102

tion of such tests.¹ Nārada has besides these hot gold and rice tests² and is for assigning each of these tests to each of the castes, e.g. "a pitcher to a Brāhmaṇa, fire to a Kshatriya, water to a Vaiśya and poison to a Śūdra."³ The balance is said to be particularly for women and the weak and the diseased.⁴ An exhaustive summary with alternative methods is given in the *Vīramitrodaya* of Mitra Miśra,⁵ but is unnecessary for purposes of theory. Manu recognises only two ordeals,⁶—by fire and water, as in the Vedic time. Jolly says that from the two main forms of divine judgment by fire and water an intermediate series of five was developed, culminating later on in nine different kinds of ordeals.⁷

The application of ordeal, as a judicial procedure, was well-marked out in Hindu Law. In the opinion of Yājñavalkya and Nārada "the proof by ordeal shall be resorted to only in default of worldly proof."⁸ Further details, specially legal in character, are found in Kātyāyana and Subodhinī.⁹ Even so late an age, as that of Śukra, has taken notice of the trial by ordeal in an earnestly systematic fashion, and in spite of the scientific procedure of the Śukra-Nīti on many problems of society and the state, this chance vindication of guilt and innocence, as the case may be, has been mentioned as an alternative method. "When *yukti* (right argument) fails, the *divya sādhana* (ordeal) has to be used in the investigation of cases."¹⁰ Again it

¹ Vishṇu IX. p. 841 ; Nārada, I. 157 ff.

² S. B. E. XXXIII. pp. 118, 119.

³ Quoted in Dutt's Trans. of Yājñavalkya, p. 80.

⁴ Vishṇu Saṁhitā, IX. p. 842.

⁵ *Vīramitrodaya*, pp. 246 ff. Vidyāsāgara's Ed.

⁶ VIII, 114, see Camb. Hist. of Ind.

⁷ Hindu Law & Custom, p. 313—Buhler, Hopkins and Meyer have also been cited.

⁸ Yājñavalkya II, 22, Nārada I. 241. Also Hindu Law & Custom p. 308

⁹ See Appendix, 9.

¹⁰ Śukra Nīti, p. 203.

is said that "when no human evidence is coming forward the ordeal might be prescribed there, and also in such cases as offence committed in solitary places, at the time of night, or in inner apartments,.....and where every fact is denied completely."¹ But the general tendency is to depend on evidence and it is perhaps due to Śukra's own scientific attitude. He has consequently put down the conditions that—

"If one party would urge human evidence and the other party divine, the king should accept the human, not the divine."² Or, "If there be human evidence, which covers only a part of the case, even that is to be accepted, not the divine, though that covers the full ground, notwithstanding men urging it."³ And lastly "an ordeal is to be prescribed to the accused only for that is so said in the Śruti, and never shall a judge order an accused to go through any of the ordeals."⁴

It is said that the gods take to it in difficulty.⁵ The importance of ordeal in supplying the turning-point to Hindu Law is elucidated in Note 9 in the Appendix.

In Śukra the forms are eight in number. Thus ordeal may be applied in eight ways, namely, fire, poison, water, vessel, (or balance) virtue-vice, rice, and oaths.⁶ There is the ninth form in casting of lot in the opinion of Bṛihaspati.⁷ The description of how these are employed for the purpose of ordeal and the faith on which these are based do not help the theory of punishment. As to the application of the different forms of ordeal, fire is for theft

¹ Ibid, p. 207.

² Ibid.

³ Ibid.

⁴ Ibid, p. 205.

⁵ Ibid, p. 203. Recommendation of trial by ordeal in spite of the presence of witnesses is found in Nārada (VI. 5) and Bṛihaspati (X. 2)

⁶ Ibid, p. 204.

⁷ Bṛihaspati X. 5 (S. B. E) see Camb, Hist. of Ind. I. p. 283; Hindu Law & Custom, p. 311. Theo. of Govt. in Anc. Ind. p. 179.

of one thousand, poison for one fourth less, balance for one third less, water for half the amount, virtue-and-vice for half the preceding amount, rice for one sixth. Special consideration is shown according to the class of the accused.¹ Other fields of application vary in different authors, as in Nār. I, 337 ; Bṛi. 10, 11, 29 ; Yāj. 2, 98.²

The similarity between the Eastern and Western methods regarding trials of this kind is note-worthy. It was fitly called the "judgment of God" in old England and hinged on the event of the denial of guilt.³

Political Application

Retributory punishment in its purely political character was by no means wanting since the Vedic period, the principle being to all intents and purposes a probable development out of that of retribution itself as above. The reference to *wergeld*, (or *vaira-deya*),⁴ proves the payment of compensation as the more practical method within human power. It is the equivalent of damage and as such is of paramount importance to the method and principle of punishment. Jolly has indicated "blood-money" to be a "private affair" of those days.⁵ Professor Basu has argued by analogy, on the authority of Stubbs,⁶ about *wergeld* "as the successor of direct personal revenge, an eye for an eye, a tooth for a tooth,.....limited by the interference of the king."⁷ Dr. Das thinks, on the strength of the Vedic Index, 11, 331, that the acceptance of compensation for man-slaughter points to the fact that the

¹ Ibid, p. 205.

² Hindu Law & Custom, p. 315.

³ Gardiner's Hist. of England, p. 32.

⁴ R̥ig Veda, V. 61, 8. Griffith's Trans. Also Cambridge Hist. of Ind. I. p. 97 ; and Āpastamba I. 9. 24 ; Baudhāyana, I. 10. 18.

⁵ Hindu Law and Custom p. 284.

⁶ Const. Hist. of England, Vol. I.

⁷ Indo-Aryan Polity, p. 99.

sphere of private revenge was being gradually diminished by public opinion and the royal authority¹. Yet nothing beyond a mere casual connection between offence and due punishment is found in the penal processes of this early age. In later Sanskrit the word "deya" became technical and meant "legal liability" in the law-books and compensation for murder was juridically recognised by them, according to Hopkins.² Thieves were also known and punished³ in the Vedic age, but the underlying principle is not at all clear. Likewise debts were as well forced to be repaid, though the punishment for non-payment and its nature are not thoroughly known.⁴

Manu is quoted by Sir W. Jones to show the retributive character of punishment in ancient Indian Law⁵ in these lines—

"With whatever a low-born man shall assault or hurt a superior even that member of his must be slit or cut more or less in proportion to the injury".⁶

It is repeated in Gautama, Nārada and Viṣṇu and corresponds to the Jewish Law of "an eye for an eye, a tooth for a tooth."⁷ This Mosaic equation between offence and punishment is everywhere instinctive and ingrained in human nature⁸, and is admitted by all authorities. Even Kauṭilya has the same idea—

"The limb of a Śūdra with which he strikes a Brāhmaṇa should be cut off."⁹

Jolly's remarks in this connection are very important. "In the case of mutilation and execution as in other ancient

¹ Rīg Vedic Culture, p. 436.

² Cambridge Hist. of Ind. I, pp. 242, 284.

³ Rīg Veda, VII, 86, 5 Griffith's. Tr. ⁴ Indo-Aryan Polity, p. 101.

⁵ Institutes of Hindu Law, p. 192.

⁶ Manu Samhitā, VIII, 279-280; also Gautama XII. 1. S. B. E. 11. 238. Nārada, XIV, 25; S. B. E. XXXIII, p. 211; Viṣṇu V. 26, S. B. E. VII. p. 27.

⁷ Exod. 21. 22.

⁸ Cf. Holmes, Common Law, p. 45.

⁹ Artha Śāstra, p. 247.

systems of punishment, the principle of retaliation (talion) as well as symbolical punishments came into play. The offender or robber shall lose that limb with which he assaults or injures anybody. The slanderous tongue shall be cut off, the hand raised for a blow or the foot raised for kicking shall be done away with..... The lips which spit on a man out of hatred and the thievish finger of a pick-pocket shall be cut off", etc. etc.¹

In the Mahābhārata punishment as retribution is represented practically in Jewish perfection, and it is also condemned as the lower method. "To pain when pained, to take revenge on him who takes revenge, to retaliate when struck, to do harm in return for harm" are items of retributive judgment recorded in the great Epic.² But it is spoken of in the same breath as "conduct which being followed (by men) would destroy the whole world and bring forth unrighteousness."³ The Epic motive of punishment becomes after this stricture one quite different from the retributive ideal. As a necessity for the up-keeping of the state, or in other words society as a whole, its implications are entirely separate.

Punishment as Expiation

Spiritual punishment, as the analogue of worldly punishment, is accepted by Indologists like Burnell, Weber, Barth, Konow and Jolly.⁴ As a principle it goes back even to the Indo-Germanic period.⁵ The washing away of sins was believed to be possible and was but a part of the action of the supernatural. Thus it is fully religious rather than political in any sense. This concept of penance the Hindus had in common with the ancient

¹ Hindu Law & Custom, p. 281. See Theo. of Govt. in Anc. Ind. p. 82.

² Vana Parva, 29.

³ Ibid.

⁴ Hindu Law, & Custom, p. 263.

⁵ Ibid, p. 255.

Greeks and Romans.¹ Purificatory water is spoken of in the following verse—

“Whatever sin is found in me, whatever evil I have thought, If I have lied or falsely sworn, waters remove it far from me.”²

It is supposed that this removed the guilt of the misdeed and the doer was then left free. A similar idea is that of expiation for sin or guilt, which had great influence on later literature. A passage in illustration is added below—

“Honour us in the present days, O Indra,
For hostile men are making expiation”.³

At about this time, it ought to be noticed, other practices were developing as ways to magical virtues. Fasting and abstinence were regarded as means of attaining various supernatural powers.⁴

When laws were codified and customs and traditions were being reduced to principles, purification and expiation played the most abnormally important part. Hopkins has described the nature of this process in a few pithy and short sentences. “In ancient time punishment for crimes was inflicted by divine judgment or directly by the king or through penance imposed by the priest..... There seems to be here an amalgamation of earlier priestly jurisprudence with later legal practice. Originally the penance was inflicted by the king at the behest of the priest”.⁵ The law-books give minute details of numberless ceremonies, penances and purificatory rites prescribed for various forms of religious, social and political offences,

¹ The Spirit of Hindu Law, (A. C. Gupta, Cal. Law Journal, Vol. XLII, Oct. 1925, p. 49).

² Rig Veda, X. 9. 8. Griffith's Tr.

³ Ibid VII. 28, 4. Griffith's Trans.

⁴ Radhakrishnan, Ind. Philosophy I, p. 111.

⁵ Ethics of India, pp. 112, 113.

but all inextricably mixed up together, for they all meant sinning of some sort and therefore fell under a single highest genus. Its political aspect, as crime and secular law-breaking, peeped out of the masses of quasi-religious injunctions bearing on custom and tradition, sometimes explaining or reinforcing them. Hence the peculiarly Hindu theory of punishment is that it purifies sin.

Punishment when rightly and justly administered is considered to absolve the offender of the sin attached to his act. This supposition is common to the prominent law-givers and the Mahābhārata. Jolly has quoted them in pointing out that "the criminals, who have received their punishments from the king, are purged of guilt and go to heaven like holy men.....of course the sin is transferred to the king"¹ and is neutralised. A parallel idea occurs in St. Peter, namely, that "he that hath suffered in the flesh hath ceased from sin".²

For expiation through punishment the king is to be approached as the proper and recognised inflicter of condign punishment. It is the punishment, which has the effect of purifying sin. The Mahābhārata says "the king should free them (the people) from sin by punishing them according to law (righteousness)."³ The Bhāgavata Purāṇa also has this principle of purification through punishment.⁴ Besides this, Yājñavalkya enjoins that "a person (in case of stealing) should make over to the king a mace, proclaiming his own misdeeds. Killed or saved he

¹ Hindu Law & Custom, p. 263. The converse side of the idea is equally stressed by the law-givers. Āpastamba, Baudhāyana, Manu and Nārada agree that in the case of neglect or pardon of punishment the consequent sin is borne by the King. (Āpastamba, 1. 7. 20, S. B. E. 71. Baudhāyana, II. 1. 1. S. B. E. XIV. p. 213. Manu, VIII. 317. Nārada. S. B. E. XXXIII. p. 299.)

² I. Peter, IV, 1.

³ Rājadharmānuśāsana Parva, 68.

⁴ III, 9 ; X. 14.

attains purification”¹ It is confirmed by Āpastamba,² Baudhāyana,³ Manu,⁴ Nārada,⁵ Uśana,⁶ Samvarta,⁷ and Vasiṣṭha⁸, and in the last three probably as the general procedure for all offences. Some of the authorities also prescribe other kinds of severe penances under such a case. Hopkins maintains that this “brings up the intricate question of the relation between legal punishment and religious penance”.⁹

The Epic accepts this law¹⁰ and has recorded the exemplary conduct of two ascetic brothers, Saṁkha and Likhita, before king Sudyumna. Likhita ate some fruits from the hermitage of Saṁkha without his permission and this constituted theft in the conscience of the ascetic brothers. Likhita went to the king Sudyumna, according to his elder brother’s advice, to be purified by punishment. This was the only course before them for the purpose of eliminating the sin of the act. The king pointed out the alternative of being pardoned through the royal prerogative. The younger ascetic preferred actual punishment, the elder one having declared the actual infliction of punishment beyond the jurisdiction of Brāhmaṇas.¹¹ He was punished as he desired and his hands were cut off—at least such is the story in the Epic.¹² Another example is of Kṛiṣṇa’s two doorkeepers who asked the visiting sages for punishment, in order to be purified of their sin, as they had somehow insulted these Brāhmaṇas.¹³

¹ Yājñavalkya Samhitā, III. p. 153, see S. B. E. XXXIII. p. 230.

² Āpastamba Samhitā, 1, 25, 4 ; Also cf. Camb. Hist. of Ind. I. p. 24.

³ II. 1. 1. S. B. E. XIV. P. 213. ⁴ Manu Samhitā VIII. 315.

⁵ 46, S. B. E. XXXIII. p. 230. ⁶ Uśana Samhitā, VII. 16. p. 252.

⁷ Samvarta Samhitā, 121. p. 346. ⁸ S. B. E. Vol. XIV. p. 101.

⁹ Camb. Hist. of Ind. p. 320. ¹⁰ Āpaddharma Parva, 165.

¹¹ Rājādharmaśāstra Parva, 23. ¹² Ibid. ..

¹³ Bhāgavata Purāṇa, III, 9.

Saraswatī has cited the first incident to refute Mill's charge against India in his Representative Government.¹ Mill spoke of the Hindus as "a people disposed to shelter the criminal than to apprehend him."² In fact what was wanted by him had been laid down by Nārada and Śukra long before him. It was the social policing in self-defence, when the rule of self-surrender had ceased to have any power over the criminals. Śukra says "you should never keep screened, that is give protection to men of wicked activities, thieves and bad characters, malicious and offensive persons as well as other wrong-doers."³ Professor B. K. Sarkar has elucidated this passage in terms of modern thought. "It is the duty of the people not only not to commit these wrongs, but also to hand over to the police, or otherwise disclose to the state, the existence of the men who are in any way undesirable to society or the state. The whole society is thus to be an information and vigilance committee and an association for public safety."⁴ In Nārada the point is pushed forward with ruthless consistency to the effect that "those who do not come to offer assistance, when people are crying out for help within their hearing,.....are likewise accomplices in the crime."⁵

As a matter of fact Mill was not expected to know all about the higher laws of conscience among the Hindus, over against the "laws of civilised government" to which he referred. If self-surrender for personal purification can be made the supreme rule for all offenders, the policing activities of the state and society would be naturally suspended as ultimately unnecessary. A culture, which

¹ Hindu Rājanīti, p. 250.

² Rep. Govt., p. 179. Everyman's Library Ed.

³ Śukra Nīti, p. 39. Also see Nārada XIV, 19. S. B. E. XXXIII, p. 205.

⁴ Ibid, Note.

⁵ XIV, 20. S. B. E. XXXIII, p. 205.

could produce such conduct, even in a very few men, had undoubtedly something in it of solid spiritual power and substance. It ought to be said as well that India of the time of Mill was not what she used to be in ancient days. Nor can perfect coalescence of theory and practice be assumed for any age in any part of the world, East or West.

Expiation presumes that the offender is self-punished being self-convicted, and he is prepared to take on himself the consequences of his own misdeeds. He is self-condemned first, before he is condemned by society. Religious consciousness is here applied to politics, and was perhaps a unique fact in India alone. It was more than simply confessing sin and even giving it up, because it meant in addition the acceptance of legal punishment, as due consequence, and was certainly more courageous than mere religious acknowledgment of failure and fall. This is the individual aspect of that "definite collective sentiment" known as penal law. Bosanquet has spoken of "sin against the common good" for denominating crime.¹ In India it was sin against the absolute good, which was realised in spiritual experience.²

Punishment as Restraint

The restraining function of punishment seems to be the predominant note of the Hindu theorists. Even the

¹ Phil. Theo. of the State, p. 36.

² N. B. The theory of expiation is closely parallel to the *Mīmāṃsā* doctrine of *adṛiṣṭa* (the unseen) or *apūrvā* (the new). "When the sacrifice is performed the action leaves such an unseen magical virtue, called the *adṛiṣṭa* or the *apūrvā*, that by it the desired object will be achieved in a mysterious manner for the *modus operandi* of the *apūrvā* is unknown". (Das Gupta, Hist. of Indian Phil., p. 72). The doctrine of Karma is of course the back-ground. Expiation wears out the effects of sin to be met with in after life.

doctrine of *danḍa* itself is mainly based on it, implying check to such an extent, as to rule out the repetition of criminal acts, and to stop evil in favour of the good. In this sense it anticipates reformation, although reformation means the growth of new good habits in place of the old, mischievous ones. Retribution is not expected to achieve such ends adequately, its deterrent action being exerted through the fear of painful consequences. Expiation has the advantage, as already noticed, of anticipating that the sinner will sin no more and probably turn over a new leaf in life.

The restraining principle is evidently connected with protection, which is the prime object of the social application of *danḍa*. In fact *danḍa* is for protection, of which restraint is a factor. It is legal in its character, having the limitations set by law, which is its own starting-point. Restraint is consequently the exact opposite of license.

Gautama in a stray passage has pointed out this principle of punishment which is apparently his own view. He holds that "the creation (primary object) of punishment is for checking the miscreants and wrong-doers".¹ His explicit statement on this point has no qualifying remark to connect it with any other principle. Here punishment is not associated with "tit for tat" or extracting *wergeld* or compensation for the wrong done. Its definite object is to check wrong-doing through penal means ; the objective itself points to a qualitative estimate. It is supported by the great law-giver Manu in his *Dharma-Śāstra*.

"Just as the sinner is seen to be held by the noose (net) of the god *Varuṇa*, similarly the offender is to be

¹ Gautama, XI. p. 682. Dutt's Trans.

punished as long as he is not repressed. This is the Varuṇa-like function of the king".¹

The above is Kulluka's interpretation of Manu. The word "represses," (from *damana*) used by the law-giver, is rather strong in this context, but its import is clear in the sense that it does not intend anything very drastic. It is really equal to restraint to the degree that will ensure the successful stopping of the reappearance of the act. Gautama drives the word "daṇḍa" from the root *dam*=to restrain.² There is no reference, of course, to the removal of the cause, since the deterrent element is viewed by itself alone. The Mahābhārata also yields the same principle, but its prescription is stronger and more legal in character. In accordance with its standard, "any one going beyond the laws through disregard of them should be punished or killed",³ so that license may not spread and laws may not be turned into dead letters. It is also mentioned in the same place that "those who go beyond control (law and order) should be rightly punished by the king".⁴

It is to be observed that its legal aspect forms its essence; the limits are laid down by law and thus a standard is fixed. Whatever takes place is judged with reference to this prepared back-ground. Restraint means check from this stand-point and punishment is for keeping up this check on individuals. The whole social machinery of Hinduism plays its parts within such allowances and checks, "vidhi" and "nishedha".

Punishment as Preservation

This aspect of punishment logically falls under restraint, but is at the same time the goal of the principle

¹ Manu Samhitā, IX 307, p. 605, Kulluka's Commentary.

² Gautama XI. 28; (S. B. E.); Hindu Law & Custom, p. 279.

³ Rājadharmānuśāsana Parva, 32. ⁴ Ibid.

of punishment itself; even reformation is a kind of preservation, or in other words, has it for its end. In this respect Manu has struck the very key-note of punishment and shown its ultimate object. He speaks of it generally as—

“Punishments have been prescribed by the sages, so that righteousness may not be outraged and un-righteousness may be cured”.¹

The analogies used by the legislator in the words “outraged” (from vyāvichāra) and “cured” (nirāmaya) are those of passion and disease, which are extremely dangerous to social life. As such, these are remedied by due punishment. The suggestiveness though metaphorical is important, even if nothing exactly like the medical view of Lombroso is meant here. It only indicates the distemper involved in unrighteousness. Preservation of righteousness, resulting in social solidarity, is secured through punishment and is a factor in it. An equally suggestive view fraught with potentiality is that of Somadeva Surī, the Jaina writer. “Daṇḍa” (punishment) is defined by him as the means of purification like a course of medicine”.² Again “the punishment awarded to the offender is for the purification of the state” on the authority of Garga, cited for confirmation.³

Kalidāsa, the greatest Sanskrit poet, has beautifully revealed the preserving nature of punishment in his description of the ideal king in his *Raghuvamśam*. He has portrayed him as “punishing for the sake of preservation those who deserve punishment” and indeed nothing better can be said in defence of the principle of punishment. Thus he has summed up the whole argument in a few words delicately woven together.⁴

¹ Manu Samhitā, VIII. 122.

² Nītivākyaṃṛitaṃ, 9. p. 202.

³ Ibid.

⁴ *Raghuvamśam*, Canto, I. 25.

Preservation may be of two types, namely, preservation of society and preservation of the individual—the whole and the part—both implying each other. Both are of intrinsic value, but the part has to be sacrificed in case of danger to the larger whole. As to the individuals the Epic states that—

“In case of their deviating from the law (of righteousness) you (the king) ought to save them by applying just (i.e. deserving) punishment”.¹

Punishment in such instances becomes the means, direct or indirect, of preservation from further ruin. It reacts on the whole necessarily. But an individual, looked at from the view-point of the whole, comparatively loses value and importance. Hence the individual may be sacrificed just as any part for the good of the whole according to circumstances—

“If by destroying an individual or a whole family, the kingdom becomes safe and dangerless it ought to be done” (in the interest of society).²

Here the principle of preserving the larger whole at the cost of the part, or parts, is brought forward. The explanation for all drastic methods, like capital punishment etc., is most probably that the person or persons concerned would be considered to have lost all relation with society and the whole of creation—in short completely outlawed.

The Mahābhārata says that—

“Outlaws (robbers) have not the least relation with men, the celestials, and ancestors. Since the robbers go against righteous law they ought to be destroyed, otherwise they will destroy the whole world”.³ For “How can the course of the world go on if the wicked are not punished ?”⁴

¹ Āpaddharma Parva, 166.

² Rājadharmānusāsana Parva, 33.

³ Mokshadharma Parva, 167.

⁴ Ibid

It is also added that "that man may be killed by all, who has done all types of bad works", against God and man.¹ This judgment is evidently based on the system of rights and duties and those who are outside this system can claim no relationship to it or protection from it. Preservation of this system means the removal of those who attack it. Śukra has thus advised the extirpation of those who desire evil of the common-wealth² as much as Kautilya, the imperialist,³ and his follower Kāmandaka.⁴ Bṛhaspati relates capital punishment with the safety of the many from the same point of view⁵ and with an additional religious tinge.

From the stand-point of modern criminology the position may be put like this. The purpose of Criminal Law is to defend society and that purpose must be strictly realised, no matter what happens to the individual criminal.⁶

Punishment as Reformation

This is apparently a late development rising out of the principle of restraint and punishment is then considered to be "for the good of the offender" as in the Bhāgavata Purana.⁷ If restraint or prevention is to be permanent, that is, if crime is to be really done away with in the long run, the habit of the criminal needs to be radically trans-

¹ Bhishma Parva, 15.

² Śukra Niti, p. 136.

³ Artha Śāstra, pp. 287, 297.

⁴ Niti Sāra, p. 209.

⁵ S. R. E. XXXIII, p. 390.

⁶ S. Banerjee, *Criminology*, (Tagore Law Lectures), p. 7. Also, Cf. Lecky, *Hist. of European Morals*, II. p. 90. "A crime is no longer looked upon as the innocuous act of an individual which could be purified by payment of money, but it came to be looked upon as the act of a person who is a danger and a menace to the community and who therefore must be chained up or got rid of in the interest of society".

⁷ X, 14.

formed, and when this is done successfully, the results are expected to be lasting. Kauṭilya and Śukra are very definite in stating this principle, though it is not altogether absent in the canonical legal literature and in the Epic. Many of the rules and aphorisms in these works imply the reformatory idea in order to be anything with meaning and object. It is implicit rather than explicit, nevertheless it is hinted in an unmistakable way. The definiteness of the secular authorities is missed in the canonical writers, while subsidiary means to reformation are formulated by them with the same object in view.

Kauṭilya, who is more inclined to award the severest punishment than the Mahābhārata, so as to cure the disease as well as the patient at one and the same time, and in whom death sentences and various punishments are certainly much more profuse, has unexpectedly asserted reformation as the soundest principle. He too has used the medical analogy like Manu and is in that respect nearer Lombroso—

“When guilt is got rid of, there will be no guilty persons, but when only a guilty person is got rid of, the guilty will contaminate others”.¹

The passage has a distinct principle to yield even when it is detached from its context. The great politician was speaking of the crimes imported by foreigners, like diseases which travelled with travellers. All the same Kauṭilya's view is clear. He has made the right diagnosis that guilt or crime spreads from person to person, as a contagious disease, through bad example and bad inducement, ultimately affecting portions of society. He has purposely designated it “contaminating”, as it is really so. The right method of dealing with it will be to treat the

¹ Artha Śāstra, p. 425.

cause rather than the patient—at least before the patient. It means reformation of the criminal by eliminating the criminal tendencies. But as long as the tendency remains, all efforts will fail, or at the most be partially and temporarily successful in checking the infection.

Śukra in defining punishment lays bare the very source of the reformatory idea. He is fully aware of the fact that habit is at the root of the matter and hence it is desirable that it should be tackled first; restraint consequently becomes one of the means to that end. He says in his own logical fashion—

“Punishment is that which leads to the giving up of bad practices and is restraint by penalties by which animals are kept within check”.¹

This definition shows that Śukra knew fully all the different springs of action and his attempt is to modify them. In his exhaustive list of bad men he has not left any type out of consideration.² For them his prescription is also reformatory supplemented by restraint. Thus he advises :—

“The king should punish such bad men and also those who have been vitiated by bad company and *teach them good ways of life*”.³ “The king should bind and restrain the man who commits sin”.⁴ “They (criminals) should be bound and transported to islands or forts and employed in the work of repairing roads and made to live on insufficient and bad diet”.⁵

The object of punishment according to Śukra is neither retribution nor restraint, but something higher and nobler—it is in fact the highest end. It stretches beyond mere preservation being in itself a progressive idea :—

¹ Śukra Niti, p. 130.

² Ibid. p. 136.

³ Ibid.

⁴ Ibid. p. 135.

⁵ Ibid. p. 136.

"The king should always administer punishment for the furtherance of morality and religion".¹

And in this sense punishment is "the great stay of virtues"², its aim being the advancement and creation of good character, nay the highest type of being. The danger in punishment—it is to be borne in mind—lies in the fact that "others (some at least) are demoralised"³. Therefore "all the methods and means bear fruits through the king's policy of punishment".⁴

The Mahābhārata and Yājñavalkya both suggest reformation by recommending the reinstatement of men gone astray to their former duties and position. This is redeeming them directly and positively, as it means checking their down-grade drift and then lifting them up, and thus it has an element of the reforming idea in it.

Yājñavalkya desires that—

"Having duly punished (men of his own) family, castes, division and class and the subjects the king should place them in the right path".⁵

The Epic supports it in its more hortative direction which is as follows—

"It is duty to set the mischievous (anārya) and evil-minded men, who are always given to breaking laws, back to the observance of and obedience to laws".⁶

"It is the duty of the king to bring people to good ways of life".⁷

¹ Ibid p. 131. Cf. Kāmandaka, who justifies punishment for the purposes of justice, as the immolation of animals is for the sake of virtues (Niti-Sāra p. 64) and Śukra who holds that right punishment is really mercy to the offender (Śukra Niti p. 131).

² Śukra-Niti, p. 131.

³ Ibid.

⁴ Ibid.

⁵ Yājñavalkya Smṛhitā, 1, p. 58.

⁶ Rājadharmānuśāsana Parva, 83.

⁷ Mokshadharma Parva, 167.

Although these injunctions may not fully succeed to secure reformation, yet they are undoubtedly instrumental to it. Restraining and preventing may on the surface be the guiding factors, but when the objective is considered, which means right path and good ways and obedience to laws, the principle becomes quite clear as well as apparent.

Punishment and Discipline

The survey given above of the different aspects of punishment goes to show a single object for which it is applied and justified, and this too at the last analysis comes to be the preservation of society through education. Whether explicit or not, it runs underneath all the theories. Even when the Western views of punishment are considered, "as a means of repression or amputation (Plato), educational discipline (Aristotle), a deterrent (Bentham), moral atonement (Kant), medical treatment (Lombroso)",¹ the object is not left out, nor does it pass out of view. From the stand-point of the object itself the safest and sanest theory would naturally lead to the educational or disciplinary character of punishment.

Kauṭilya emphasised discipline, both artificial and natural, for the purposes of safety and security. His aim evidently was to educate men to be good citizens through punishments applied with care. He says—

"Punishment which alone can procure safety and security of life depends on discipline. Discipline is of two kinds ; artificial and natural".²

According to the Artha-Śāstra, *natural* discipline only unfolds the faculties that are already there, but *artificial* discipline probably serves as external checks for creating habits.³ But Kauṭilya is not quite clear as to what he

¹ Vinogradoff, *Common-Sense in Law*, p. 244.

² Artha-Śāstra, p. 10. ³ Ibid.

means by this distinction between natural and artificial types of discipline.

Kinds and Conditions of Punishment

Jolly, on the testimony of Nārada, distinguishes only between "corporal punishments and fines".¹ But punishment has been broadly divided into four classes in political and legal literature. Variations issue out of these, such as ostracism, excommunication and banishment.² The primary types are given below—

- (a) Dhikkār-daṇḍa (saying fie), i. e. moral disapprobation,
- (b) Vāg-daṇḍa (verbal punishment),
- (c) Artha-daṇḍa (fines),
- (d) Vadha-daṇḍa (capital punishment),³

These fall under mental, verbal, and corporal punishments.⁴ Manu mentions imprisonment, binding down, and corporal punishments of different kinds.⁵ Kauṭilya has repeated all kinds of punishments many times—fines about 340 times and capital punishment more than twenty times. No author is so perfect in enumerating punishments and in prescribing them at length.

But all such punishments have to be applied according to conditions laid down in the writings of standard authors and to be proportionate on the whole, and also they have to be inflicted with yukti (reason),⁶ in order to avoid all "abstract judgment", so strongly condemned by Hegel. "The guiding principle in awarding punishment" says Mr. Jayaswal. "is laid down in the Mānava Code, VIII, 126.

¹ Hindu Law & Custom, p. 280.

² Yājñavalkya, 11. p. 143 ; Ibid, 111. p. 159.

³ Mokshadharma Parva, 167. Manu Saṁhitā, VIII. 129-130 ; Yājñavalkya, 1. p. 59 ; Śukra-Nīti, p. 208.

⁴ Vana Parva, 191.

⁵ Manu Saṁhitā, VIII. 310.

⁶ Rājadharmānuśāsana Parva, 25.

The following matters had to be taken into consideration with thorough analysis (tatvatah)—(a) *anubandha* (motive), (b) place and time (circumstances), (c) capacity of the criminal, (d) the crime itself.¹ Vishṇu says that “he (the king) shall administer punishment to those who deserve it proportionate to their guilt² and so does Kauṭilya.³ The general rules accepted by all authorities are—

“The king should inflict punishment having considered the age, strength and circumstances of the people”.⁴

“Having duly weighed the intention, place, time, strength and offence the criminal should be punished” by the king.⁵

Such rules helped justice as well as the criminal. They had that humane element in them which “tempered justice with mercy”. Hence the king is advised to “properly create (devise) the forms of punishment”.⁶ In fact the paramount need for such procedure is pointed out in the modern time.⁷

The standard punishments for the castes are given in the Mahābhārata as—

“For Brāhmaṇas harsh words (reproach and disapprobation), for Kshatriyas stoppage of salary, for Vaiśyas surrender of commodities, for Śūdras confiscation of everything would mean condign punishment”.⁸

¹ Manu and Yājñavalkya, p. 83.

² Vishṇu, iii. 65 p. 823.

³ Artha Śāstra pp. 71, 243, 247.

⁴ Mokshadharma Parva, 167.

⁵ Manu Saṁhitā, VIII 126 ; VII. 16 : Yājñavalkya, 1, p. 59, II. p. 110 ; Vaśishṭha, p. 803 ; Vishṇu, 111, 190, 834.

⁶ Vishṇu, 111, 66. p. 823.

⁷ Trade, Penal Philosophy, pp. 389-390.—The offender, the offence, and its causes have to be remembered.

⁸ Rājadharmānuśāsana Parva, 50.

Punishment and Laissez Faire

When the Laissez Faire ideal is brought to bear on the problem of punishment, for the purpose of avoiding excessive and harsh paternalism on the part of the state, the difficulty arises as to where punishment is truly justifiable. It may be noticed that this "let alone" policy did not grow to any prominence in India, but was practically covered to a great extent by the doctrine of *ahimsā* (non-injury), which powerfully influenced and played a very important part in every sphere of Indian life and thought.¹

In the *Mahābhārata* personal liberty as a standard is expressed in the general rule that "none should assail another even under difficult circumstances";² it is also said at the same place that "this rule of Manu" is unworkable,³ for otherwise the world would not go on. On the other hand the Epic is fully aware of the fact that "most people are punished and die because of being falsely accused; while very few people are charged with real crime".⁴ This may be spoken of the servants of the state and of the people in general, since nowhere can justice be found in absolute purity. While unjust and undue punishment is condemned,⁵ the question of innocent men falling victims to "law and order," as it is today, had to be faced in an impartial way. It was a real problem before these ancients, who wrote on politics and sociology according to their conception of them. Śukra raised the most subtle point with regard to the administration of punishment—

¹ Cf. Brown, *Underlying Principles of Legislation*, pp. 178, 192. "The Laissez faire position is that a citizen has the right to be let alone, so long as his action does not inflict any grave and direct injury upon others"..... "The laissez faire doctrine is directed.....against the expression of paternalism (of the state) in the way of coercive regulations".

² *Rājadharmānuśāsana Parva*, 87.

³ *Ibid.*

⁴ *Ibid.*, 111.

⁵ *Manu Saṁhitā*, VIII. 127.

"Can the virtue arising from mercy come out of punishment? How can good accrue to a king through the punishment of his subjects?"¹

The solution of such a difficulty is given by the Epic in its conception and application of *ahimsā*. Of course virtue as a spiritual idea was all along the back-ground of Hindu politics in almost all its aspects, theoretical as well as practical.

The *Mahābhārata* speaks of *ahimsā* as a kind of punishment, or in other words, puts *ahimsā* in place of punishment—

"Kings should govern their subjects through good treatment and behaviour. If the subjects are governed by punishment in the shape of *ahimsā*, the good have not to suffer from oppression."²

Such a position ensures latitude to the people as well as the elimination of harsh and hard methods and stops too much paternalism on the part of the state. It is really the principle of love and trust joined with mercy, yet more than mercy and royal favour.

Brahmanical Privilege

As in the case of taxation, the *Brāhmaṇa* had the privilege of being exempted from punishment, probably since the time of the *Atharva Veda*, V. 18, 14, mainly on cultural and spiritual grounds. The one significant condition on which it is based is that—

"He who has real contact with *Brahmana* (God, the Absolute) through concentration and austerity (*tapas*) is the highest (of beings) in this world. Such a *Brāhmaṇa* can never be punishable."³

¹ *Śukra Niti*, p. 131.

² *Mokshadharma Parva*, 167.

³ *Vana Parva*, 191.

This dictum was evidently unduly generalised in many cases and the result was that Brāhmaṇas, and not Brāhmaṇhood, were free from the infliction of punishment.¹ That a real Brāhmaṇa, that is one who has the qualities of a highly cultured soul, and who has risen above worldly things, cannot naturally do anything wrong so as to be punished, is a fact needing no explanation. It is similar to the idea in John's Epistle that spiritual rebirth is proof against sin.²

Another object for allowing this privilege to the Brāhmaṇas is that—

“Brāhmaṇas should never be punished.....because being properly respected, they preserve the Vedas (knowledge) on the earth.”³

But a quite sentimental plea is advanced, in addition to this reasonable ground, in favour of good and learned Brāhmaṇas—

“In Manu's opinion the Kshatriya is produced out of the Brāhmaṇa.....Hence a Kshatriya trying to kill a Brāhmaṇa (in extreme cases) becomes himself exhausted.”⁴

Bad Brāhmaṇas, that is those who acted unworthily regarding Brāhmaṇhood, were within the range and the jurisdiction of the king's punishment. The Mahābhārata and the Mānava Dharma Śāstra state clearly that—

“But if Brāhmaṇas become oppressive (unrighteous) in any way they should be certainly punished..... There is no sin in beating an unrighteous Brāhmaṇa.”⁵ Even the religious preceptor is not to be excepted in this respect.⁶

¹ Rājadharmānuśāsana Parva, 59 ; Manu Samhitā, VII, 32.

² “Whosoever is born of God doth not commit sin, for his seed remaineth in him ; and he cannot sin, because he is born of God” (i. Jn. iii. 9).

³ Rājadhārmanuśāsana Parva, 56.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid 84, p. 978.

"A Brāhmaṇa, who goes against the religious observances of others by accepting gifts and performing ceremonies and thus falls from (the standard) righteousness, should be made to suffer punishment."¹

The general rule is that "none is above punishment from the king" in case punishable conditions prevail at all.² As a matter of fact the proportion of punishment was much higher in case of Brāhmaṇas than in those of the other castes.³ The higher the caste the greater was the whole scale of punishment. Hence the idea that all Brāhmaṇas could go without punishment having done wrong was limited by the rules cited above. Although the Brāhmaṇical privilege was abused for some time, the ideal on which allowances were made to the class was one of great utility. Vaśishṭha's sweeping statement is to be considered carefully together with those of Parāśara and Atri.

"The king shall punish that village, where Brāhmaṇas unobservant of their sacred duties and ignorant of the Vedas subsist by begging, for it feeds robbers."⁴

It ought also to be noted that The Pali Texts know of no privileged position of the Brāhmaṇas in the eye of law ; rather the statement of the Madhura Sutta that "a

¹ Manu Samhitā, IX. 273.

² Rājadhārmanuśāna Parva, 121 ; Manu Samhitā, VIII. 335. Kauṭilya has punishment for Brāhmaṇas but not torture. His prescription includes branding of the face and penal servitude. (Artha Śāstra p. 279). But the Epic wholly forbids the killing of Brāhmaṇas under ordinary circumstances. (Udyoga Parva, 81, p. 484).

³ Manu Samhitā, VIII, 338 ; Gautama Samhitā XII. p. 684. S. B. E. II, p. 240.

⁴ Vaśishṭha III. 4. S. B. E. XIV. p. 17. Cf. Atri, i. 22. p. 289. (Dutt's Trans), who says the same thing practically as well as Parāśara, I. 33 ; See Theo. of Govt. in Anc. India, p. 180.

criminal, no matter whether he is a Brāhmaṇa or belongs to any other caste would be executed, appears in a number of passages of the Jātakas, where any one speaks of the execution of a Brāhmaṇa, as in I, 371, 439.”¹ Even Tapasvīs (ascetics) were not beyond punishment according to the Epic, which enjoins punishment for them ?²

CHAPTER XII THE RISE OF PROPERTY

General Meaning

In Sanskrit vocabulary property is subsumed under the word “*artha*”, a generic term deep as well as wide, standing as the second among the four categories of human life,—*dharma* (righteousness), *artha* (wealth), *kāma* (objective) and *moksha* (salvation). A long process of gradual crystallisation brought into it all the various meanings, which became attached to it in course of time. These may easily be referred backwards to the different periods of growth, but here they are alluded to merely in an introductory fashion without any philological emphasis. The Lexicographer Amara of C 800 A.D. gives the following meanings of *artha*, which disclose the development of the concept stage by stage. Among relevant synonyms mentioned in his work are—a thing (*vastu*), need (*prayojana*), purpose (*abhidheya*), earning (*vitta*), property (*svapateya*), wealth (*dhana*), fortune (*vibhava*).³

¹ Fick, Social Organisation p. 212. Maitra's Trans.

² Rājadharmānuśāsana Parvā, 32.

³ Amara Kosha, pp. 242, 325, Colebrook's Edition.—

“*Artho bhidheyorai vastuprayojana nivrittishu*”

Dravyam vittaṁ svāpateyaṁ rikthamriktham dhanam vasu, artha rai vibhava (api)”. “*Sampat, Sampatti*”. Also see Śavdakalpadruma.

All these words show a close connection between the underlying ideas, and this connection is clearly revealed by an analysis of them. Thus a thing is the material form of a need which it somehow satisfies. A purpose is the psychological side of it, and earning is exchange of labour for property and need, while wealth is accumulated property in the most comprehensive shape—in short fortune. In a dictionary of synonyms no explanation can be expected for the terms, yet it shows the precipitate of the ideas already highly advanced and mature at the time of the dictionary-maker. In about 300 B.C. and long before Amara, Kauṭilya technically defined “*artha*”, like Mill, as “the subsistence of mankind” and even “the earth which contains mankind is also termed *artha*”.¹ Śukra spoke of “the earth as the source of all wealth”.²

Psychology of Property

The psychological basis of property deserves to be treated before its political aspect, not only because of the natural relation it bears to the genesis of property, but also for the fact that a better understanding of its origin and growth calls for it. For purely psychological analysis and ethical vision, the *Bṛihadāraṇyaka* Upanishad supplies the earliest thought on the subject and the basis for ritualistic morality as in *Manu* and the *Mahābhārata*. The moral responsibility of possessions is a never-ending theme with the Hindu moralist, but nowhere else is found the exact reason why property is desired in its widest sense. Says the *Bṛihad-Āraṇyaka*—

¹ *Artha Śāstra*, p. 515. Mill has fully endorsed it in his query—

“But is there nothing recognised as property except what has been produced (by labour)? Is there not the earth itself, its forests and waters, and all the natural riches above and below the surface? These are inheritances of the human race”. (*Prin. of Pol. Econ.* p. 480).

² Śukra *Nīti* p. 23.

"So great indeed is desire !—not even if one desired would he get more. Therefore in the present time one living alone desires thus.....'may I gain wealth to do my works (sacrificial rites)'. Having desired thus he thinks 'I am incomplete !', as long as he does not obtain any one of the desired objects".¹ Again, "Wealth indeed is liked for the need of the self".²

Śaṅkara has commented on this—

"Wealth is means to works, like cows etc. ; desire signifies the wished for object. Thus, the first unwise (avidyā-influenced) person (self) not seeking the ātman (inner self) desired..... ; this is the course of the world.....Therefore since the creation by him up to the present day one living alone desires (in the same way). Ultimately when all these are attained, then is his completion".³

It also gives the relation between the self and property (vittam), including cows etc., as—"His (man's) self is the nave and his property (even as cows etc) is of the nature of the circumference of the wheel"⁴—signifying thereby

¹ I, 4th Brāhmaṇa, 17.

"Etāvānvai kamonechchhamśchanāto bhūyo vindet tasmādapyetarh-yekāki-kāmayate jāyā me syādatha prajāyeyātha vittam me syādatha karma kurvyeti, sa yāvadapyeteshāmekaikam na prāpnoty-akṛitsna eva tāvanmanyate".

² II, 4th Brāhmaṇa. Chatterjee's Trans. Hume makes it "love of the self" (Thirteen Principal Upanishads).

³ Śaṅkara's Commentary, p. 161, Śrī Vāni Vilāsa Ed.

"Vittam....Karmasādhanaṁ gavādīlakṣhaṇaṁ ; lavdhavyavishayo hi kāmah...yasmāt evamavidvānanātmakāmi pūrvah kāmayāmāsa, tatha pūrvataropi ; esha lokasthitiḥ....Tasmāt tatsarīṣṭau etarhi etasminnapi kāle ekāki.....kāmyate....Pariśeṣhyāt-samastānevaitān sampādyati yadā, tadā tasya kṛitsnatā".

⁴ I, 5th Brāhmaṇa, 15. Cf. Ihering, who has defined property as "the periphery of one's person extended to things" (Struggle for Law, p. 55). The relation is thus similar here—Also Green who speaks of it as "a sort of extension of man's organs" (Pol. Obligation, p. 214).

the supplementary yet intimate connection between the two. This figure of speech is too common in Hindu thought and it points to a unity of parts, which, though strictly inapplicable to this case, yet shows the importance of property to the self for expanding and expressing itself.

Such an analysis, as the above, of the oldest of the Upanishads is quite in keeping with modern psychological idea that property completes the will. That is to say, it is some form of self-completion, whether it is collected wealth or daily earning as means to acquire property. In this sense property is said to be "objectified will"¹ and here the bit of Hindu psychology already quoted is sound and very modern in its outlook. It explains wealth, whether it is possession or property, as the manifestation of the will or of the instinct of acquisition. The purely pragmatic import of property discloses another side of the topic and is deducible from the relation subsisting between the self and property. Somadeva Surī emphasised its utilitarian character in exhibiting property according to Hindu terminology as "that is wealth through which all needs are satisfied (supplied)".² In Nārada it is the means and medium of "all transactions".³ This old idea of property fairly corresponds to the modern concept of "commodity" in general⁴.

The Upanishadic conception of property indicates that the possession of property appears at first to be a means to the *satisfaction* of wants, which are mostly primary, but it is really the "first embodiment of freedom and an independent end". The avidvān self must give to his freedom an external form for the sake of reaching the *completeness* involved in the idea of property. Thus it

¹ Bosanquet, Phil. Theo. of the State, p. 241.

² Nītvākyaṃṛitaṃ, p. 27—"yataḥ sarvaprāyojanasiddhiḥ so 'rthah'"

³ S. B. E. XXXIII, p. 51.

⁴ See Capital, p. 1.

may be stated in Hegelian language that "property is the embodiment of the particular will".¹

The Brhad-Āraṇyaka takes the naked self² only, or the individual as he is in his unqualified simplicity, or in other words his very personality without further elaboration due to education and progress.³ And then when it shows the relation of the self to property, it lays down the true principle that property is the self expanded just as the circumference is mathematically the extension of the centre on all sides.⁴

Rise of Property

The origin of property as an institution is a political question. It is in reality an index to the social stage in which it appears, just as has been directly brought out by the Mahābhārata.⁵ Political thought characterises it first as possession, indicating its crude form before the birth of the state, and as property proper when state-laws come into operation. These may be called *pre-state* and *post-state* property⁶ or as mere *possession* unregulated by law and regular *property* as a political concept.⁷ The purely natural and industrial stage of property is represented in Manu, just as its social and political stage is found in the Mahābhārata, but both influenced more or less by the Buddhist traditions.

¹ Hegel, Phil. of Right, Dyde's Translation, pp. 48, 49, 50.

² This is clearly seen when the self (ātman) in the process of evolution is taken up by the Upanishad in this connection at the very start and represented as desiring wife for creation and wealth for sacrifice. (See Brhad-Āraṇyaka Upanishad, p. 159. Vani Vilasa Ed.)

³ Adopted from Hegel's Phil. of Right, Dyde's Translation, p. 52.

⁴ Cf. Ihering's famous phrase—"extension of the periphery".

⁵ Rājadharmānuśāsana Parva, 49.

⁶ Cf. Gierke, Pol. Theo. of the Mid. Age. p. 5.

⁷ Cf. Rousseau, Social Contract, p. 19, Coles Edition.

A few words in passing are necessary here before entering upon a discussion of the origin and nature of property. The whole problem is finally one of rights and how such rights can arise. Jolly says "the essence and origin of ownership have been the subject of philosophical disquisitions even in very ancient times in India."¹ It was a matter which called for a satisfactory explication. The Hindu legislators and their schools of law knew that there is something undefinable in ownership.² The condition, which introduces right and ownership, resolves itself into possession (or occupation) and creation (or labour). The theory bifurcates at this point—at first property is based on occupation as the most natural method and then it is based on labour which is rather artificial in character. The Buddhist idea of property and that of Manu represent occupation and labour respectively. In Indian thought labour seems to be earlier than occupation and probably it is so naturally and in fact. They also mark the difference between Grotius and Locke on this topic.³

But it is patent that labour and occupation are the two poles of the origin of property ultimately merging into one, for occupation itself is a form of labour, implicitly assumed in all theories, and explicitly explained by Śukra to some extent.⁴ To begin with the appearance of property, it is evident that everything in the world owes origin and

¹ Hindu Law & Custom, p. 196. ² Ibid. p. 197 ; e.g. Smṛiti Saṁgraha.

³ Cf. George, Condition of Labour, p. 35. Ritchie, Natural Right, p. 266.

⁴ Śukra Niti, p. 210. It is interesting to note that Śukra does not recognise occupation or possession as a source of right. "A man is not the owner of property because it is held by him. Is it not found in the case of thieves when somebody's property is being held by somebody else?" (Śukra-Niti, p. 210). To answer Śukra the view of Manu and Locke has to be adopted. Cf. Yājñavalkya, who thinks "āgama (acquirement) is a claim superior to that of possession" in a general way (II. 27, Dutt's Trans. p. 66).

existence to God and property is no exception. In the Mahābhārata all property is creation of God,¹ that is to say made out of original matter subsequently appropriated by man. Manu and Yājñavalkya consider labour to be the source of property, since personal labour clothes things with right, while God-created things are common to all. The Buddhist account takes no notice of the element of labour involved in property, which is of course fundamental in Manu and Yājñavalkya, while Śūkra does not at all admit the validity of occupation and possession.² Such a position naturally brought in the Trust Theory of property, as a distinct and highly significant contribution, because trust assumes something existing from before to which there is no claim to be made on any ground.

Buddhist Account

(a) The Buddhist tradition, which is probably chronologically earlier but has a later colouring, traces property back to the state of nature in which everything was common to all, being used according to needs. Proprietary demarcation was the effect of the selfishness of individuals, who tried to appropriate more than their share as provision for the future. Thus it is related that—

“If these beings (primitive men) wanted rice to eat in the evening or in the morning, they would go and get what is requisite, but it happened that one being, who was of an indolent disposition, took at one time enough rice for evening and morning. Now

Also Manu VIII. 200 ; Nārada I. 84, 85 ; Bṛhaspati, IX, 22. See Jolly, *Hindu Law & Custom*, p. 201. Also see “Analysis of Ownership” in the Appendix, Note 10. Cf. Rousseau’s “A Discourse on the Origin of Inequality, Ch. 2.

¹. See Trust Doctrine below.

². See Supra, Note 4, p. 165.

another being said to him, "come let us go for rice." Then he answered him, 'look after your own rice, I have taken enough at one time to last me morning and evening.' Then the other thought, 'Good capital ! I will take enough rice for two, three, seven days' ; and he did accordingly. Then it happened that someone said to this person 'come let us go for rice,' but he answered him, 'Look after your own rice ; I have taken enough at one time to last me two, three, seven days ! 'Good capital !' thought the other, 'I will take enough rice for a fortnight, for a month ;' and he did accordingly.

And because these beings took to laying up provisions of this spontaneously growing rice, it became coarse ; a husk enveloped the grain, and when it had been cut it grew not up again, but remained as it had been left. Then these beings assembled together in sorrow.....and said, 'Let us now draw lines of demarcation and establish boundaries between each one's property' (portion). And so they drew lines of demarcation and set up bounds—'this is mine—this is thine' (they said). Now this is the first appearance in the world of a system of boundary lines and this (boundary) is right or not right according to the king's decision, for he is the Lord of the Law."¹

It is to be noted that the necessity for political society is seen in the rise of property according to the Buddhist view, which is more comprehensive and better connected than Manu's treatment given below. Regulation of property and the assignment of rights introduce an assessor who is the first political head. The rudiments of proprietary right are also indicated, though not so pointedly as in Manu.

¹ Rockhill's Buddha, pp. 5-6.

Manu's View

(b) Manu gives the essentially individualistic conception of property in its most primitive or merely labour-produced form, when the state had no existence, nor even society of any kind other than the presumably nomadic without any trace of system. It seems Manu goes back in substance to a stage earlier than that pictured in the Buddhist record. He does not speak of any conflict with other individuals or any consequent pressure for regulating property and right, but only defines the condition of the right to property, which appears to be intuitive, or natural. Such right is based on industry (labour) becoming proprietary at once, or in the language of Locke "labour was to be the title to it." Manu has declared—

"According to ancient authorities the land belongs to him, who first cleared it of forests and a deer to him, who pierced it first with his arrow."¹

The Hindu legislator has not mentioned the names of the authorities he was following, but it is clear that there was this old tradition in his time. It is in keeping with Locke's treatment of the same subject. These lines from the English philosopher are parallel to Manu's in thought and language—

"As much land as a man tills, improves, cultivates and can use the products of, so much is his. Thus the law of reason makes the deer that (American) Indian's who hath killed it."²

But later on Locke deals with property just in the same way as the Buddhist account has done above. The principles involved are the same, for he went on to say that—

¹ Manu Samhitā, IX, 44.

² Civil Government, pp. 24, 25, Cassell's Edition.

"This is certain in the beginning, before the desire of having more than man needed has altered the intrinsic value of things, which depended only on their usefulness to the life of man..... Though men had a right to appropriate by their labour, each one to himself, as much of the things of nature as he could use, yet this could not be much nor to the prejudice of others, where the same plenty was still left to those who would use the same industry..... The increase of lands and the right employing of them is the great art of government."¹

Epic Treatment

(c) The maintenance of property, and proprietary right, is an advanced question untouched by Manu, but only hinted at in the Buddhist record. Nowhere is the need for the state more urgently felt, than in the sphere of rights and claims. In a sense the state is for these and these are born with the state. Even in the Vedic time a king was needed to assign rightful portions presumably through state actions. The elected king was expected to do it as his duty. In an electing hymn the Atharva Veda says—"Be seated on this summit of the body politic and from there vigorously distribute the natural wealth."² In the justice of the state is seen to lie the germ of private and personal property, though it is no theory in the Vedas. The Mahābhārata concerns itself with this problem of rights and draws a distinction between "*mineness*" (ownership) of two kinds—"external" and "*internal*"—and defines it generally as the "consciousness that it is my property, my

¹ Civil Government, pp. 29, 31.

² Atharva Veda, III. 4, 2. Whitney's Translation is the same in substance. The term "good things" is put for "natural wealth." Vide H. O. S. VII, p. 89. Vide Note 10 in the Appendix.

son, etc.”¹ Evidently the one is proprietary consciousness of right and the other is the (bhoga) enjoyment of property acquired. The point here is how could these be possible? Undoubtedly these involve “possession” and “protection” of property for the keeping up of right. But such enjoyment and security of property can be assured only by the state, through the coercive power of “daṇḍa” operative in restraint and punishment. It means simply that enjoyment of possessions without security is obvious in the state of nature, but to make it secure by changing it into right is possible only in civil society. Thus title comes into being in and through the state.

Further property, as the most important instrument of the family, which is the political unit, becomes in the Epic the primary product of the state and the chief factor in consolidated society. It is worth noticing that the Mahābhārata everywhere puts property in conjunction with wife and children pointing out thereby the whole apparatus of family life. It regards property to be an indispensable domestic adjunct—“a corollary to the household family”.²

In anarchy of the non-state condition, “none can have any (sense of) “mineness” (claim, title) to anything”, “none can live in possession of food and things”, “none can safely enjoy (bhoga) wealth and wife (family life)”.³ This “socioplastic chaos” is not civil society but the state of nature. Here anybody can have anything.—“any two combine to take the property of one and many combine to take it from the first two”. “Enjoyment (bhoga) is under envy and at the will of others”.⁴ Hence as shown by Professor Sarkar “property does not exist in the non-state

¹ Rājadharmānuśāsana Parva, 13.

² Vide Bosanquet, *Phil. Theo. of the State*, p. 281.

³ Rājadharmānuśāsana Parva, 67, 68. ⁴ Ibid, pp. 984, 985.

(condition of the logic of the fish, *mātsya-nyāya*)"..... Property however is not mere (*bhoga*) enjoyment, possession....Property, (*bhoga*, enjoyment plus *mamatva*, ownership), is the differentium between the non-state and the state.¹ Necessarily the Mahābhārata has declared that "acquiring wealth and taking to a wife must be done under the shelter of the king".² For men can spend their days only by taking the shelter of the all-fruitioning king.³ This is practically equal to asserting that the highest security and development of the accessories to life are obtained within the state, since it not only preserves but creates right, which comes into being with its own life.

But the Epic also recognises that "there can be no right to fruits without the sowing of seeds",⁴ which is in short labour-produced title. Kauṭilya has spoken of activity (labour) being the root of all wealth,⁵ and it means the due recognition of labour as an element in right allowed by nature before the beginning of law.

Trust Doctrine

(d) The trust doctrine of property steers clear of the initial difficulty of proprietary rights, and being necessarily in intimate association with religious ideas, concerns itself rather solely with the object of acquiring it. In fact the question of right does not arise at all, when everything is looked upon as the gift of God. It is also a natural intuition consequent on man's experience of the world and of himself. The Hindu conception of the material world agrees with the Christian idea⁶ in accepting it as the

¹ Pol. Theo. & Ins., of the Hindus, p. 204.

² Rājadharmānuśāsana Parva, 57, p. 978.

⁴ Anuśāsana Parva, 163.

⁶ Gen. I, 28, Eccl. XVII, 1-11.

³ Ibid, 76, p. 990.

⁵ Artha Śāstra, p. 44.

bounty of the Maker. The Mahābhārata speaks of the purpose of creation—

“For the enjoyment of all beings this whole world of moving life and inert matter has been created by His (God’s) power”.¹ Again, “all the wealth, as well as corn, of the world has been created for the good and nothing for the wicked”.²

But to the question of man’s use of the world and all the things found in it there is only one answer throughout the Hindu Śāstras. The individualistic idea has been carefully shut out, so that no selfish end might be read into the object of creation. While the Vedas pray for “riches turned to worthy ends” and “wealth that directs both worlds”,³ the Epic states that “wealth has been created for sacrifices (yajña) and man has been appointed the trustee for it”. Again, “God has created wealth for sacrifice and man for protecting wealth ; therefore wealth should be spent for sacrifice and not for satisfying desire”.⁴ And “wealth is the means to dharma (righteousness)”.⁵ Consequently wealth and righteousness (artha and dharma) are inter-related, the former being under the latter. Their combination is sweet and beautiful, like that of honey and nectar.⁶

The Mahābhārata further enjoins that “wealth above one’s need must be given to the poor”.⁷ and the Bhagavata Purana has the final word on it in pointing out that—

“Living beings have the right to so much as fills the stomach. He who desires more is a thief and deserves punishment”.⁸

¹ Anuśāsana Parva, 14.

² Apaddharma Parva, 132.

³ R̥ig Veda, I. 141.

⁴ Rājadharmānuśāsana Parva, 20, 26.

⁵ Ibid, 8.

⁶ Apaddharma Parva, 167.

⁷ Mokshadharma Parva, 169.

⁸ Yāvat briyate jāṭharam tāvāt svattvaṁ hi dehinān

Adhikaṁ yotikāṅkheta sa steno daṇḍam arhati (Bhāgavata Purāṇa, 7, 14, 8).

Manu has sharply distinguished between "*divine* wealth" and "*devilish* wealth" according to their use,¹ which in fact serves for a supplementary commentary on the parable of the talents.² It is like Professor Hobhouse's division of "property for use" and "property for power" in his "Property, Its Duties and Rights".³ In fact Manu's object for earning consists in "supporting relatives, performing religious rites and saving the body from hunger and nudity".⁴ Again "a man desiring happiness must not earn more than his need, that is for maintaining himself and his family and doing religious works, for contentment is happiness and discontent is sorrow."⁵ The rock-foundation on which such ideas rest is the Epic conception that wealth belongs to nobody, being a creation of God—"Many hold the view that wealth does not belong to anyone",⁶ and that "wealth is slave to none but man is slave to wealth".⁷ It is thus neither common nor personal, but always fraught with an end.

In its deeper implication the trust theory of property stands next door to the Communism of Plato and More. It necessarily reduces to the vanishing point all exclusiveness, like that of the unduly magnified Christian doctrine that "the labourer is worthy of his hire",⁸ in favour of an expanding spiritual generalisation of everything acquired in this world by the energy and enterprise of man. The individual element in personal use of things gives place to a higher utility, where others (gods and men implied in sacrificial rites) receive proper, if not greater, consideration. Thus it is said that "the whole world is

¹ Manu, XI, 20.

² Matt. 25 ; 15 ff.

³ Quoted in Hodgkin's *Christ. Revolution* p. 221, and in *Acquisitive Society* p. 93.

⁴ Manu, IV, 3 ; cf. XI, 21.

⁵ Manu, IV, 12 ; XI, 21.

⁶ *Rājadharmānūsāsana Parva*, 26

⁷ *Bhisma Parva*, 43.

⁸ Luke, 10, 7.

based on *yajña* (sacrificial rite)¹ and apart from its orthodox and religious meaning, it has an undoubted social significance and a spiritual character ; for “*yajña* and the world are reciprocally protective”.² It is another way of saying that all material things are related to their proper use for the good of the universe. This reminds one of Tawney’s standard of property in his famous book the “Acquisitive Society”, shown as, what is “needed for proper service to the community”.³

In the conception of *Yajna* as combined ceremony and service, the radical socialism of the Epic, declaring everybody to have equal claim to everything,⁴ is superseded by a robust spiritual idealism, which secures practically the same result, but shuns the patent difficulties. Śukra, therefore declares that “the world exists through charity and goodness”.⁵ “Through wealth men gain virtue, satisfaction and salvation.”⁶ Like Manu, Śukra also insists on “enjoying wealth after giving away portions to the king, relatives, friends, servants, thieves and wife and sons.”⁷ But long before Kauṭilya found “the world bound by wealth”⁸ and “wealth the means to virtue and enjoyment”.⁹ Here is a combination of the individual and social phases of wealth—“the subjective and objective sides” of property in the words of Vinogradoff¹⁰—and both are implied in the responsibility of possessions. The whole argument may be summed up in the reflection of the Epic that “by wealth can be controlled this world and the next, and also truth and righteousness”.¹¹

¹ Mokshadharma Parva, 168.

² Ibid, 169.

³ Acq. Society, p. 63 ; Also Hodgkin, *Christ. Revolution*, p. 221.

⁴ *Aśvamedhika Parva*, 32 ; vide *Supra*, Ch. IV, *Pol. Authority*, II.

⁵ Śukra Nīti, p. 118.

⁶ Ibid, p. 264.

⁷ Ibid, p. 265. Cf. Sarkars’s “Positive Back-gr. of Hindu Sociology, p. 79.

⁸ *Artha Śāstra*, p. 398.

⁹ Ibid, p. 394.

¹⁰ *Custom & Right*, pp. 80, 86.

¹¹ *Śānti Parva*, 130.

In fact Manu's pronouncement stands as a challenge to the world even today. The quantitative solution of socialism means equal distribution and nothing more, while Manu drives at a qualitative change in man's attitude to property. Indeed the whole problem is becoming clearer day by day in the modern time. The observations of Penty¹ and Tawney² demonstrate the real end underlying the possession and distribution of property—in short the proper function of property. Property is moral and healthy when it serves social purpose and discharges personal obligations. Such is Dharma (righteousness) and Yajña (sacrifice) in the Hindu sense,³ fused together to answer a spiritual end. Mr. Jinarajadasa has explained their relation in the following words—"Wealth is needed for all. But all must be moved by one motive, one will, as they seek happiness. This is found in the idea of yajña, (sacrifice), which Manu gave to his peoples. Under many names this idea reveals itself to men—as dharma, patriotism, art, or social service. But the strength in them all is sacrifice, that is making holy."⁴ Indeed it is regarded a great "purifying agent like charity and austerity."⁵ The Epic has consequently revealed its

¹ Towards a Christian Sociology, p. 150.

² Acquisitive Society, pp. 28, 44. 1st Edition.

³ Cf. Trivedi's Yajña Kathā.

⁴ Meeting of the East and the West, p. 39—Manu has *five* compulsory *Yajnas* and *three* unavoidable *ṛinas* for every man (Manu Samhitā, III. 70, 117, IV. 21, VI. 94). These constitute the self-abnegating activities of human life. These are—Brahmayajña by teaching pupils, Pitṛi-yajña by feeding ancestors, Deva-yajña by Homa offering to gods, Bhūta-yajña by Bali offering and Nṛi-yajña by hospitality to guests, and the corresponding ṛinas (debts) as—deva-ṛiṇa, pitṛi-ṛiṇa and rishi-ṛiṇa, to be cleared by yajña and pūjā, by śraddha and offspring, by tapas and brahmacharyya (Śavda-kalpadruma). Manu further adds that wealth should not be earned more than necessary for the above purposes.

⁵ Gitā, IV. 12. Also see Barnett's Hinduism, p. 52.

inwardness by declaring that "from sacrifice rises immortality,"¹—from the spirit and act of sacrificial rites.

The practical exposition of yajña in the Bhāgavata Purāṇa reaches the natural as well as the logical climax in the following—

"Therefore all living beings, like the camel, deer, ass, monkey, rat, snake, bird, fly, etc., should not be stopped, if they enter the house or the field for feeding themselves on corn and other eatables. They ought to be looked upon as one's own children. In reality how far can any distinction be drawn between them and such children? A house-holder should not enjoy alone what he has earned in the way of religious merit, earthly wealth, and desirable objects. He ought to give away shares to the dogs, the chandālas (low-caste men) and the fallen (out-cast men). Even one's wife should be set to the service of the guests at the expense of personal convenience."²

It is but the application of the spirit of yajña to the world of living beings through innumerable contacts of active life—in fine the nṛi-yajña of sacred law³ enjoined on every house-holder.

In the conception of property as *trust*, the Hindu thinkers reached—it must be admitted—a very high degree of economic idealism, which, in depth and extent, showed the most consummate synthesis of the spiritual and the material, transforming the latter at every turn into means to and instruments for the former. If the spirit is really spiritual, the use of property becomes spiritual as well, or to quote Hegel it may be said to be "giving a soul to property." To regard property as trust does therefore mean a great spiritual advance and is in fact

¹ Anuśāsana Parva, 77.

² Bhāgavata Purāṇa, 7, 14, 9, ff.

³ See Supra, Note, 4, p. 275.

impossible without it. It is the transmutation of individualism and socialism into something, which is both, without destroying either totally and for good. The details of the regulation of private property in individual life, according to Hindu thought, are impossible here, but it is sufficient to add that Hindu religious practice eminently succeed in divesting the individual, through various rites and sacrifices up to the stage of sylvan retirement, of unnecessary, injurious and mischievous accumulation, without any recourse to "death duties" or other forced levies. Yet all was voluntary from the sense of religious duty and the self of man was not snatched away from him.

The proper balance between Vyashṭhi (the individual) and Samasṭhi (the collection) was the aim of the Hindu religious economist ; he could not logically sacrifice any one of these for the sake of the other and thus raise an outwardly easy yet impracticable theory. When a light sneer is passed on the all too religious strain of Hindu thought in every department of knowledge, its right import is often misunderstood and more often missed altogether. If anything is expected to infuse the correct spirit into man's use of this God-created world, adjusting all economic and social relations into a spiritual whole free from jarring and concussion, it must be religion after all, when it is liberated from its air-tight segregation and is allowed to flow into and become one with politics, economics and sociology. The solution of the property problem seems to lie in this direction. Professor R. K. Mukherjee has observed "that aggressive individualism and keen proprietary instinct under the influence of Roman Jurisprudence, emphasising private property and the sacredness of rights, have given in the opinion of the most thoughtful sociologists and political philosophers a somewhat wrong direction to the development of nations

and states in Europe.¹ The individualistic emphasis obtaining to-day has apparently failed to realise what Hinduism tried to do through the institution of *yajña* of many kinds down to numberless *bratas* (small ceremonies). Even in socialism itself the trust idea has a good and important part to play, and may contribute to its very foundation and goal.

The following lines of Vyāsa will show how property was considered an instrument for public good and the realisation of the true end of life. To this great sage the significance of property depends on its use. It is no property which does not come to any use. He says pithily—"The riches of the rich are what they enjoy and endow. Others play with.....the riches of those, who neither enjoy nor endow after their death."² The evident conclusion therefore is that property should be properly utilised.

"Why not give away your riches in charity, which you shall have to leave behind after death? Truly realised is the end of his life on whose life depends the livelihood of his friends, relations and Brāhmaṇas. Even the beasts live and pamper their own bellies. Of what use is the strength, health and longevity of him, who does not do any act of public good? If you have but a morsel of food, why do you not give half of it to the poor? Verily I do consider a miser to be a man of great renunciation, in as much as he leaves behind him all his hoarded riches after death. A charitable man is the veritable miser living, since he would be benefited by his wealth (spent in charities) in the next world. One day we shall have to quit this life. He dies not who has realised the end of his life (through charities). A miser dead is like an ass who carried only

¹ Local Government, p. 23.

² Vyāsa Saṁhitā, IV. p. 527, Dutt's Trans.

other men's ingots on his back. Even space and time will one day die, but the merit of a spontaneous and voluntary gift will never suffer any death."¹

In respect of the object and use of property Aristotle may be cited to set off Vyāsa worthily and effectively. It illustrates once more how the ancients thought alike in the East and in the West and the fact that the meaning of property consists in the spirit represented by it. Unused "talents" bear no relation to life, nor to exchange values for which coins are made. The motive of property is necessarily the central thought in Vyāsa and Aristotle.²

In a remarkably pregnant sentence the Kural³ has summed up the whole argument on unused wealth in which no purpose is to be found. One who does not know how to use his wealth is rightly called "*a disease unto a great fortune*"; "his existence is a burden upon the earth."

Laukika (Worldly) Aspect

(e) Laukika property, implying its *legal* nature, is shown from Mitākshara, Sarasvati-Vilasa and other law

¹ Vyāsa Samhitā, IV. p. 527 ff. Dutt's Trans.

² Aristotle's Ethics, IV. i. p. 228. (Vide his Politics, II. 5, p. 91, Gillies' Trans.) "Property falls under the description of things useful, which may either be used rightly or abused; and he can only use them rightly, who is adorned with the virtue appertaining to them, namely liberality. The use of money consists in expending and bestowing it, for the taking and keeping of money relates to possession rather than to use. The virtue of liberality, therefore, is more conspicuous in bestowing handsomely than either in receiving what is our due or in refusing what we ought not to accept. This active virtue (liberality) is alone the proper object of praise and gratitude,..... None are more beloved than the liberal, because their virtue is extensively useful diffusing itself in benefits. But the motive from which their actions proceed is what chiefly constitutes their excellence. Liberality like every other virtue must keep the beauty of propriety in view, selecting its objects and proportioning its extent according to those rules which right reason prescribes. Liberality is relative to our wealth, it consists not in the value of our gifts but in the temper and habit of the giver."

³ Kural, p. 208.

books in Jolly's *Recht and Sitte*.¹ "And juridically speaking, the property taken cognizance of by the state is *laukika*, i.e. worldly, material or secular" is Professor B. K. Sarkar's explanatory remark based on the old *Mīmāṃsā* view². As a legal institution it does not touch the theory of property, having no direct bearing on it. The origin of personal property involving the right to use, transfer, bequeath, sell and destroy any property is essentially a legal matter. Its sacredness is preserved by the authority of the state under *danda* (punishment) and through the operation of law. It is the state that gives validity, as shown by Professor Sarkar,³ to the "seven modes of acquiring property" according to *Manu* (X. 115) and to its "three titles" according to *Vaśiṣṭha* (XVI. 10) and other legal incidents,⁴ all of which fall under the concept of ownership in the modern Science of Law.⁵

The net result of the institution of property in consolidating social and family life is as great and far-reaching, as that of the very establishment of the state itself, though the former is subsidiary to and dependent on the latter.⁶ Following the *Mahābhārata*, it has been adroitly pointed out⁷ that "two miraculous changes are effected in social life once private property is called into existence". First,

¹ p. 91. Also See Jolly's *Law and Custom in Anc. Ind.* (Eng. Tr.)

² *Political Theo. & Inst. of Hindus*, p. 208—The *Mīmāṃsā* view of property is the extreme *Laukika* idea making it a mere convention. So "Vijñāneśvara following a suggestion of Prabhākara argues that Jaimini (III. 1. 3-6) was of opinion that property was essentially a matter of popular recognition" and popular recognition is only convention. (Keith's *Karma Mīmāṃsā*, p. 101.)

³ *Ibid*, p. 209.

⁴ Jolly, *Recht & Sitte*, pp. 90-92; See Eng. Tans.

⁵ Cf. See K. Garies' *Science of Law*, pp. 139-148. See Appendix.

⁶ *Baudhāyana* evidently regards the state to exist for the express purpose of protecting property and life, and though he is not quite explicit, his meaning is clear in his law-book, where he speaks of the duty of the ruling caste, the *Kshatriyas*. (I. 10. 18, 3 and 16, pp. 199 and 201, S. B. E. Series Vol. XIV). The passage referred to runs thus—

people can sleep without anxiety "with doors open"¹ and secondly, women decked with ornaments can walk without fear "unattended by men".² This is equal to the most comprehensive security to life and to its necessary accessories, which makes life worth living in this world and gives a real meaning to it.

An analysis of the idea of ownership in Hindu Law may prove to be useful to the problem of property. It is given in Note 10 in the Appendix.

"In the Kshatriyas (God placed) strength.....(the privilege) of using weapons and protecting the treasure and life of created beings for the growth of (good) government". Cf. Mill—

"However the assumption that government exists solely for the protection of property is not one to be deliberately adhered to.....that protection being required for person as well as property. The ends of government are as comprehensive as those of social union. (Prin. of Pol. Econ. p. 485).

¹ Śānti Parva, 68, 30.

² Ibid, 68, 32.

CHAPTER XIII

PRINCIPLES OF TAXATION

Need and Object

Taxation is a necessity of the state. This is illustrated in (a) the Vedic prayer for "rendering the people bali-hṛit (tax-bearing)",¹ (b) the Epic aphorism that "the state is maintained by finance",² (c) Kautīlya's observation that "finance is the basis of all activity (of the state)",³ Śukra's statement that "funds should be collected by the king to maintain the commonwealth",⁴ Kāmandaka's saying that "treasury is the main stay of the government",⁵ and Somadeva Suri's remark that "the treasury is the king" (the state in reality).⁶ From the earliest time down to the age of Śukra the life of the state was seen, as usual, bound up with taxation and all undertakings of government depended on it.⁷ The close connection between taxation and public administration is almost self-evident in all works on politics, as one of the primary and essential conditions of corporate life.

The effort to think out the basis for such taxation, in the shape of governmental demand, naturally led to the formulation of theories about it, which were ultimately

¹ Rig Veda, X, 173 ; Vedic Index, 11, 212.

² Śānti Parva, 133.

³ Artha Śāstra, pp. 73, 394.

⁴ Śukra Niti, p. 138.

⁵ Niti Sāra, p. 43.

⁶ Nitivākyaṃgītaṃ 30, p. 345.

⁷ Cf. Mill, Prin. of Pol. Econ. p. 483. and Fawcett, Pol. Econ. p. 196. In the economic language of Fawcett "the legitimate functions of governmentcannot be performed without incurring considerable expense. To meet this expense taxation is necessary". Similarly Mill speaks of revenue as "the condition of the existence of governments".

grounded on the equitable principle of exchange. In fact there is no theory, in the history of Hindu taxation, which is not in some way or other a modification of this fundamental principle. Generally speaking, from the stage of voluntary subscription¹ to that of compulsory contributions,²—even though both are for common interest—taxation changes its character with the nature of the constitution of the state, and according to the view taken of kingship. The nature of monarchy, characterised taxation in ancient times. The principles on which taxation turned in Hindu theory are (a) simple contribution (b) governmental contract and (c) remunerative wages. Looked at from the point of view of the people it is merely contributory, while from the side of the state, represented by the king, it is mainly remunerative for service done. Such remarkably modern tone does credit to the economists and the law-givers who had to tackle the ancient financial problems.

Nature of Taxation

Early in the period of the Law Books (sūtras) taxes were considered simply as *contribution by the people* without any scientific specification of their nature.³ Much advance was of course made on the Vedic conception of rather loose voluntary contribution,⁴ if such was really the condition of the age. The Code of Gautama, one of the earliest law-givers, may be taken as the type in respect of more systematised and, therefore, primitively scientific

¹ Vedic Index, II, p. 212. Cf. Mill, Prin. of Pol. Econ, p. 485.

² Banerjee, Pub. Adminis. in Anc. Ind. p. 173.

³ See Camb. Hist. of Ind. I. p. 247. Baudhāyana is an exception. See *infra*, Sec. on Remuneration by Tax.

⁴ Zimmer, Altindisches Leben, p. 166. See sec. on Kinds of Taxes.

taxation. It is probable that other legislators followed with him some common custom determining taxation.

In the 10th book of his work Gautama simply asserts that "a subject is bound to pay revenue to his king."¹ This is plainly making it the duty of the people according to the orthodox procedure of the law-books. Later on without attempting to explain he supplements his statement by merely adding—

"Inasmuch as a king ensures the safe possession of all these things (of the cultivators and traders)".²

As to the king's share his ruling is—

"The surplus of the revenue after defraying all the charges of good and efficient government should be appropriated by the king for his personal use".³

Vishnu, a later legislator of considerable importance, gives on the same method the following rule—

"Every year he (the king) shall collect from his subjects as revenue....The king shall appoint trustworthy agents in the collection of taxes".⁴

He does not try to explain the motive of his rule, as is done by Gautama, but merely puts it down as a duty of the king. In fact the spirit of the law-books do not so much aim at explanation, as at guidance for the king and the people, in regard to things to be performed duly. They do not go into theories; their work is supposed to consist in supplying the pithiest maxims for practical purposes.

(b) The *contract basis of taxation* is seen at its best in the Mahābhārata in the definite understanding between the king and the people, when both unite to erect the fabric of the state. Reference to it has already been made

¹ Gautama, X. p. 678. Dutt's Trans. See S. B. E. II, p. 230; also infra Canon I. This does not rise to the remunerative idea, though it appears to be so on the surface.

² Ibid, X. p. 678.

³ Ibid, X. p. 679.

⁴ Vishnu Smṛiti, iii. p. 820. Dutt's Trans.

in Chapter IV, on Popular Political Authority. While it takes for granted the contributory element, it adds to it proper and binding settlement with the character and authority of law. It is clearly read between the lines, if it is missed in the body of the contract itself. Its value lies not only in the fact that it freed the principles of taxation from the dogma of sacred law, but also in affording a good deal of positive dignity to the status of the people. It gave rise to the consciousness of making concrete and purposive contributions for the sake of a common good. Thus it is found in the Buddhist account and in the *Mahābhārata*, that people for the first time speak of themselves as a corporate body by the use of the word "we" in fixing the terms of the contract. It marks a high stage of political development and includes the realisation of the state as a common wealth. Tax-giving likewise passes from the passive to the active stage, where it is a self-imposed duty with an object. This very fact goes to connect it with the more advanced and more abstract principle of consent as seen in "Extra Taxation" below.

In the Buddhist as well as in the Epic contract, the main condition of taxation is the protection of the people, as in the Canonical law. The Buddhist tradition makes taxes general payments mainly for judicial work of adjusting and dealing out rewards and punishments, without any reference to other needs of the state. The wording of this contract is reproduced again for convenience of comparison and contrast—

"Henceforth thou shalt punish those of us who deserve punishment and thou shalt recompense those of us who deserve recompense, and we shall give thee a portion of the produce of our fields and of the fruits we gather."¹

¹ Rockhill's *Buddha*, p. 7. See Ch. I.

The Mahābhārata on the other hand is elaborate in its treatment of taxation rising out of contract. The nature of taxation is also well illustrated in it. The state is seen to be properly developed with its many necessities and tax meant the providing of all these. The function of taxation therefore becomes clear and definite from many points of view. The terms on both sides are stated thus—

(a) The people's invitation to Manu the first king—"Lord, you need not fear, sin will not touch you. We shall give you for the increase of treasury one-fiftieth portion of gold and animals and one-tenth portion of paddy and beautiful maidens (as fine ?) in case of quarrels, dice-gambling and custom duty (on trade). Those who can use weapons will follow you (as your army). The fourth part of our religious merits will be yours. It is also obligatory to supply to the king conveyance, umbrella, dress, ornaments, food, drink, house etc. (and other necessities). The king should be respected by people desiring welfare."

(b) Expected duties on Manu's part—"Now you maintain us like Indra the king of the gods and search the enemies like the Sun, being out for victory. Then "Manu punished crimes" and "put people to their respective duties." On receipt of his dues the king is expected "to speak sweetly to all" and "to become grateful and loving."¹

3. It ought to be noted as well that when Prithu, the first constitutional king according to the orthodox politicians of the Mahābhārata, was elected to the throne of his father Vena, "the Earth in her (own) divine shape came to him with riches and precious jewels" as due tribute to an accepted ruler.²

¹ Śānti Parva, 67.

² Ibid, 59.

The account of the Epic shows how taxation is the foundation of the treasury, the army and trade, as well as religious institutions, and royal duties grow from the conditions on which tax is paid. But the terms are as yet of the nature of a transaction and the balance is equal for both the parties,—the king and the people. Professor B. K. Sarkar has characterised it as "the cash nexus binding the king and the people."¹

(c) The next stage of taxation is the distinct *remunerative idea* for service demanded and done, and it is reached, as the very climax, by gathering up all the progress made in the preceding speculations² of previous ages. The corner-stone of popular liberty and power is indeed laid on it, affecting every shade of political thought. If "no representation, no taxation" is one of the greatest political maxims of the West, "tax—the royal wage" is equally as great and carries with it similar far-reaching implications. These have been to a great extent seen in the revolutionary doctrines rising out of the bad handling of the principles of taxation.²

By the time the teaching of the wage theory was solidified, kingship became the firmly established form of government. In reality the theory itself specifically applies to monarchy and puts it absolutely under popular control. The contract idea receives through it a new meaning and strength, though it was probably the original ground-work for such a super-structure. There could have been a wage theory, as in Baudhāyana noted below, straight from the law books, but never with the same import as it acquired after the contract doctrine. The royal position in receiving tax changes from that of equality with the people in the contract, to that of servitude to the people in the wage theory.

¹ Pol. Theo. & Inst. of Hindus, p. 183.

² *Supra*, Doctrine of Resistance and Revolution.

The passage to the wage conception from that of governmental contract is easy and logical. It means only a step forward and is an evident growth increasing further popular control. It is the sign of the advance made in politics in general—theoretical and practical. It is the popular side emphasised to the utmost, while that of the king is reduced beyond recognition. But it must be admitted that in its assimilating the achievements of the other two theories, it has undergone an allotropic modification. Nothing can exactly be posited as to the time of its birth. Apparently it looks like a corollary deducible from the exchange and contract ideas and nothing beyond an analytic survey of the basic thought can be attempted here. The historical genesis of this theory, goes back to the time of Baudhāyana. It is to be seen how Baudhāyana is traced to be the first writer to lay it down and since then it became current in political thought.

Among the legislators Baudhāyana has applied this theory direct to taxation, presumably from the prevailing ideas of constitution. He has merely referred to the exchange principle, and contract was then out of the question. It is repeated almost in the same form and substance in later political literature down to Śukra. This has already been illustrated from the stand-point of kingship, and hence a succinct resume is given below to preserve the connection of thought.

1. Baudhāyana announced—

“Let the king protect (his) subjects, receiving as his pay a sixth part of their incomes and spiritual merit”.¹

2. The law-giver Nārada has put it as—

“Both the customary receipts of a king and what is called the sixth of the produce of the soil form the

¹ Baudhāyana, S. B. E. Series. Vol. XIV., p. 199.

royal revenue, the *reward* for the protection of his subjects".¹

3. The Mahābhārata has also this stratum of thought incorporated with others of separate type. It may be simply a subsequent addition—

"Through the one sixth *bali* tax, import and export duties, fines and forfeitures collected from offenders, gathered in accordance with the śāstras—expect revenue as your *wages* (*vetena*)".²

4. In Kauṭilya there seems to be a mixture of all the ideas on taxation. While he accepts the contract basis he is not quite emphatic on the wage theory. The following extract shows his position—

"People.....allotted one sixth of the grains grown and one tenth of merchandise as sovereign dues. *Fed by this payment* kings took upon themselves the responsibility of maintaining the safety and security of their subjects".³

5. Śukra's synthetic statement lays the greatest stress and raises the wage idea to its highest in his own work—

"God has made the king, though master in form, the servant of the people, getting his wages in taxes for the purpose of continuous protection and growth".⁴

Mr. Jayaswal has called it the "divine theory of taxation" on the ground that "the broker to that contract was the Creator himself".⁵ The fact is that Śukra has tried to combine the orthodoxy of the canonical writers with the radicalism of the secular politicians. His object evidently is to secure the maximum of authority and freedom at

¹ Nārada XVIII. 48, S. B. E. Series, Vol. XXXIII, p. 221. See Hindu Polity, p. 162. 11.

² Śānti Parva, 70 Bengal Text, p. 174.

³ Artha Śāstra, p. 26 or p. 22. 23.

⁴ Śukra Niti, 1. 88. (Jayaswal's Version). See Hindu Polity II, p. 163.

⁵ Hindu Polity, II. p. 163.

one and the same time. This is one of the great merits of Śukra as a very sane political thinker, the Hindu Aristotle so to speak. The influence of Manu on the above conception has already been alluded to in Chapter II on "the Nature of Kingship". The wage theory has its climax in this remarkable and equally significant synthesis.

Canons of Taxation

In about the long period which roughly covers Kauṭilya, Manu and the Mahābhārata, a number of general rules or canons were accepted substantially and formed the basis of taxation. They represent broadly the same principles as the famous canons of Adam Smith in his *Wealth of Nations*,¹ which are followed to-day by all economists with verbal differences here and there. The subject-matter closely corresponds in both sets of canons. Considering the widely different economic circumstances under which they were produced, it is remarkable that the Eastern and Western canons agree so much as to matter and method. To all intents and purposes, they were only rules for the guidance of the state, ensuring justice between the payer and payee. When taken collectively the Eastern maxims of taxation furnish that sound economic exposition, which is neither far, nor different, from what holds good in the modern world. They yield similar results, if they are analysed, and point to the same objective in their operation. Mr. Jayaswal has given a few of them with suggestive touches of the underlying economic policy. The guiding ideal is indicated by him in the words of the Epic to be—"it is not the heavily taxed realm which executes great deeds, but the moderately taxed one, whose ruler not sacrificing

¹ Bk. V. Chap. 11.

the power of defence, manages administration economically"¹. In short both proportionate and progressive taxation produced this sort of state revenue with due care and requisite safety.²

I Canon—

"A subject is bound to pay revenue to his king, in as much as the king ensures the safe protection of all these things (of the cultivators and traders)".³ This is Gautama's dictum, which is supported by Manu in his saying that "tax should be levied (by the king) having protected the people with weapons".⁴ The Mahābhārata follows it up and allows taxation on the condition of protection⁵ and enjoins heavy taxation on the rich,⁶ who are expected to give more for the protecting work of the state,⁷ that is in proportion to their income. "Prosperous people should be gradually taxed in increased proportion".⁸ The converse of this canon is added below from Parāśara's law-book.

II Canon—

The Mahābhārata and the Manu Samhitā lay down the positive injunctions that tax must be levied according to Śāstra or law. Manu has it that "the king should take tax every year in accordance with śāstra",⁹ while the Epic declares "taxing according to reason.....is a

¹ Mahābhārata, 41, 22, quoted in Jayaswal's Hindu Polity, p. 166.

² Cf. Dr. Ghosal's Hindu Rev. System, p. 24.

³ Gautama, X. p. 678. Dutt's Trans. See S. B. E. II, p. 230; Buhler's version is not so suitable here. Cf. Manu, VII. 128.

⁴ Manu Samhitā, IX. 119.

⁵ Āpaddharma Parva, 139.

⁶ Ibid. 129.

⁷ Rājadharmānuśāsana Parva, 88.

⁸ Ibid. Cf. Adam Smith's I Canon—"Every subject ought to contribute to the revenue a sum proportionate to the income which he enjoys under the protection of the state". (Fawcett, Pol. Econ. p. 197.)

⁹ Manu Samhitā, VII, 80.

means to preservation".¹ Thus "the king ought to receive taxes from the people following śāstra".² The Bhāgavata Purāṇa makes it "taxation according to rule".³ The words "śāstra" (law) and "reason" imply the well-known fixed rate and other incidents and exclude uncertainty and arbitrariness.⁴

III Canon—

"In proper time, place, form and strength (quantity) taxes should be extracted by the righteous king"⁵ The highly condensed form of this maxim is worthy of note.⁶ Further it is pointed out by the Mahābhārata that "taking in a lump-sum at a time is equal to oppressing people,⁷ and "untimely and improper" taxes are ruled out.⁸

IV, Canon—

"Tax should be levied after consideration of the income and expenditure of the people".⁹ "Nothing must be done to cause exhaustion by taxation",¹⁰ In other words this is equal to what Manu says in the way of caution—"one's own root should not be destroyed by giving up taxes and duties nor that of others' (subjects) by excessive taxation.¹¹ The ancient Hindu Economists also saw to

¹ Rājadharmānuśāsana Parva, 58.

² Ibid, 71.

³ Bhāgavata Purāṇa, IV. 5.

⁴ Cf. Adam Smith's II Canon—"Taxes ought to be certain, not arbitrary. The time of payment, the quantity to be paid, ought to be clear and plain to the contributor and every other person". (Fawcett, Pol. Econ. p. 197.)

⁵ Śānti Parva, 88, 2. p. 211. Bengal Text; adapted from Hindu Polity, p. 166.

⁶ Cf. Adam Smith's III Canon—"Every tax ought to be levied in the time and in the manner in which it is most convenient for the contributor to pay". (Fawcett, Pol. Econ. p. 198.)

⁷ Rājadharmānuśāsana Parva, 88.

⁸ Ibid—"Improper" means "for unworthy objects" illustrating a critical estimate of taxation in the great Epic.

⁹ Ibid, 120.

¹⁰ Ibid, 87.

¹¹ Manu Samhitā, VII. 139; Cf. Artha Śāstra, p. 74. Cf. Adam Smith's IV Canon—"Every tax should be so contributed as both to take out and

the prosperity of the people and the fact that in it lay the sound policy of taxation. "Just as the calf can bear burdens strengthened by milk.....so the people when they are prosperous" (unexploited).¹ "Milk the cow but do not bore the udders".² says the Epic, Parāśara³ should be read together with this canon : his rule is given below.

Two more minor canons follow from the above. These are mentioned here, although Adam Smith has nothing like them. They are minor in the sense that they may be worked out from the principles already noticed.

V Canon—

"The king should imperceptibly realise tax from the people without harming them (in the least)".⁴ In his "Hindu Polity" Mr. Jayaswal has explained it to signify that "taxation should be such that it may not be felt by the subject".⁵ The Epic has used in this connection the metaphors of the works by the bee, the guat, the leech and of milking, and all for the purpose of showing that the process must not be felt⁶ to be troublesome. The point to be noticed is that no pain nor harm should be caused to the people by sudden demands.

VI Canon—

"The king should tax little by little like bee collecting

keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state. (Fawcett, Pol. Econ. p. 197.)

¹ Rājadharmānuśāna Parva, 87.

² Śānti Parva, 88, 4, (quoted in Hindu Polity, p. 167).

³ Parāśara, i, 59 (Dutt's Trans. p. 542) gives the partial converse of the first and the fourth canons—"As a flower-man strings a garland of flowers by culling one from each flower plant in the garden, so a king shall raise his revenue by imposing a light tax on his *individual* subjects without inflicting hardship on any. He should not be like a charcoal-man who fells down all trees in a garden and reduces them to cinders". This canon shows the law of the distribution of tax on all with the implication of the proportion of shares.

⁴ Rājadharmānuśāna Parva, 88. ⁵ Hindu Polity, p. 166.

⁶ Rājadharmānuśāna Parva, 88.

honey from flowers.”¹ At another place the condition laid down for such an act is the increasing prosperity of the realm.² It evidently aims at the rising of the rates of taxation. Manu adds to it the phrase “without harming the capital money of the subjects” and is followed by Śukra.³

Industrial Taxation

From the fourth canon is deducible the methods of Industrial taxation. Such methods are but special applications of the fourth canon as it operates on industrial products. The key-note may be expressed in the language of Kaṭīya—“Just as fruits are gathered from a garden as often as they become ripe, so revenue should be collected as often as it becomes ripe. Collection of revenue or of fruits, when unripe, shall never be carried on lest their source may be injured causing immense trouble.”⁴ Kāmandaka and Śukra have endorsed it by saying that taxes should be raised like “the gardener who collects flowers and fruits having duly nourished the trees with care”,⁵ “a florist both tends and sprinkles water on his plants and culls flowers from them.”⁶ This is the principle of replenishment or recuperation” according to Professor B. K. Sarkar.⁷

In the Mahābhārata and the Manu Saṁhitā is found special consideration of the rules for the levying of tax on articles of trade and industrial and art products. They are given below—

¹ Ibid.

² Hindu Polity, p. 166.

³ Manu Saṁhitā VII. 129 ; Śukra Niti, p. 81.

⁴ Artha Śāstra, p. 307.

⁵ Śukra Niti, p. 81. The exact antithesis of the gardener is the charcoal maker who obtains everything after burning wood. Śukra's illustration is for checking heavy taxation (Śukra Niti, p. 147). Cf. Prajāgara Parva. 33.

⁶ Niti Sāra, p. 186,

⁷ Pol. Theo. & Inst. of Hindus, p. 186.

1. As to trade—

(a) "It is the duty of the king to fix rules (i. e. rates) of taxation on the traders having considered their sale and purchase, increase and (expenses on) the way, food and clothing."¹

(b) "The king should take taxes from the merchants on their articles after proper enquiry as to the prices of sale and purchase of commodities, the distance from which they are brought, the expenses on the way for carriage and for safe-guarding them from thieves and robbers and calculation of profit on total expenses."²

2. As to industry—

(a) "Rules of taxes ought to be made, so that the fruit (profit) may be enjoyed both by the king and the worker.....but never without properly examining the work as well as its fruits. Neither profit nor execution of work is possible without a cause (i. e. incentive). Covetous extraction is undesirable as would at a time destroy trade, agriculture and the kingdom."³

(b) "On consideration in every possible way the king should fix the (rate) of tax, so that both sides, viz., he and the seller (or producer) may get real fruits (profits of their respective works)."⁴

3. As to art products—

"The production, gifts, advances (to workers) and development of those, who live by artistic work should be specially noticed in fixing the rules of tax on them.' (This rule has been separated from the above for showing its importance).⁵ It is to be noted in this connection

¹ Rājadharmānuśāsana Parva, 87.

² Manu Samhitā, VII. 127.

⁴ Manu Samhitā, VII. 123.

³ Rājadharmānuśāsana Parva, 87.

⁵ Rājadharmānuśāsana Parva, 87.

that a late writer like Śukra speaks of "maintaining artists according to need."¹

Import and Export Regulations

Mr. Jayaswal has admirably shown from Kauṭilya the rules of importation and exportation of goods. Dr. Shama Sastri's articles, in the *Indian Antiquary*,² throw good light on this subject and are very useful. Professor Hopkins' contributions should also be consulted³ for a proper estimate. The most modern out-look of Kauṭilya is simply beyond expectation. Bad and injurious imports are discouraged, while certain things are not at all allowed to go out of the country. The following principles are of great importance.⁴

(a) Imports harmful to the state and luxuries (fruitless) are to be discouraged by taxation.⁵

(b) Beneficial imports should be made free of import duties.⁶

(c) Articles which are rare in the country and those which would be seed for future production should be allowed in free.⁷

(d) Certain commodities should not be exported, while their imports are to be encouraged by not being taxed at all, viz., weapons and armours, metals, military vehicles, rare things, grains and cattle.⁸

(e) Foreign favourites and private manufactures of wine and liquors were taxed on the principle of compensation with reference to state manufactures.⁹

¹ Śukra Niti, p. 164.

² Vol. XXXIV, 1905.

³ Camb. Hist. of Ind. I, p. 245 ff. ⁴ Hindu Polity, p. 168.

⁵ Artha Śāstra, 11, 21, p. 112 ; Hindu Polity, p. 168.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid, 11, 21, 39, p. 111 ; Hindu Polity, p. 168.

⁹ Ibid, 11, p. 127 ; Hindu Polity, p. 169.

Excise Duty

Kauṭilya has a compensating charge for liquor of private and foreign manufacture. Mr. Jayaswal says—“Foreign favourites and private manufactures in wines and liquors were taxed on the principle of compensation with reference to state manufactures.”¹ The countervailing duty in such cases kept the prices equal. The Artha Śāstra has laid down that—

“Those who deal with liquor, other than that of the king, shall pay five per cent as toll” and the superintendent.....“shall fix the amount of compensation (vaidharaṇa) due to the king (from local and foreign merchants for entailing loss on the king’s liquor traffic).”²

Land Revenue

Dr. Ghosal has very carefully gone into the principles of Land Revenue and has analysed the whole system. The terms occurring below show the principal types of charges in the Arthaśāstra—(1) mūla—capital out-lay, (2) shāga—king’s share, (3) vyāji—compensation fee, (4) parigha—door-bolt charge, (5) klipta—fixed charge, (6) rupika—separate tax, (7) atyaya—money fine, (8) sītā—produce of farm, (9) bali—king’s receipts from begging, (10) kara—periodical tax, (11) piṇḍakara—lump assessment (12) shaḍ bhāga—the sixth share, (13) senābhakta—provision for army (14) utsaṅga—irregular charges, (15) pārśva—excess of due tax, (16) pārihinika—presents, (17) aupāyanika—earnings from presents, (18) kaushṭheyaka—earnings from royal store-house.³

¹ Hindu Polity, p. 169.

² Artha Śāstra, p. 151,

³ Hindu Rev. System, p. 25-55.

Extra Taxation

This involves great constitutional issues, signifying consent on the part of the people, in consideration of extraordinary circumstances, such as war, danger, famine and disease. It is intimately connected with the doctrine of resistance and revolution in case of illegal taxation. That the people were consulted and often had to be coaxed for raising revenue for special purposes is quite clear from the ancient political writings, although the exact limits are not available from them. Generally it is said that "he (the king), who collects money according to his own wishes without asking about the law from others, can not prosper for long."¹ This important principle, on which such taxation rested, is the will of the people towards the realisation of an object of common interest and welfare and it stands out most conspicuously in the case of extra taxation.

While the Epic offers the general advice of "taxing pleasingly and peacefully,"² it allows extra tax in times of danger and difficulty. "In times of danger the king can (for the purpose of protecting the people) tax unsanctioned things (items) without enraging the people."³ "Raising money by force is not forbidden in times of danger."⁴ Manu allows special rates of taxation to meet such untoward necessity. "In danger one-eighth and in grave danger one-fourth" are his standards.⁵ Kauṭilya enjoins "revenue by demand in financial trouble" at the rates of one-third and one-fourth of grains.⁶ He also advises public "subscriptions" as another means.⁷ Śukra follows

¹ Rājadharmānuśāsana Parva, 92

² Ibid, 120.

⁴ Ibid.

⁶ Artha Śāstra, pp. 301, 302.

³ Āpaddharma Parva, 132.

⁵ Manu Saṁhitā, X. 120.

⁷ Ibid, p. 303.

Manu and remarks roundly that "the ruler should realise his share of revenue according to Prajāpati's system, but in times of danger and difficulty according to Manu's system. When preparing to destroy the enemy he should receive from people special grants of duties, fines etc."¹ He adds that the amount so gained should be returned in the proper time.

But this does not mean that the people had no voice over such extra taxation or that it was but a one-sided affair. In fact the king had to approach them for such a purpose, showing such special items of the budget as "building walls, paying officers and workers and other charges."² Even in case of religious needs the money was to be the willing gift of the people. "Sacrificial rites should be undertaken by the king with the money lovingly given by prosperous subjects without being oppressed."³ Specimen royal speeches illustrate how far and in what way the king had to appeal to the people for money grants, whether against danger or for religious needs.

The Mahābhārata gives the following—

"The king desiring money demand should appeal to the people showing the danger (ahead)—'See, in the country there is fear from the enemy, but it will shortly disappear like the flowering bamboo. The enemies, having combined with the robbers, have for their own destruction aimed at attacking my kingdom. Now I pray for money from you gentlemen, since this serious danger has appeared. When the present difficulty will be got rid of, I shall return your money to you. If the enemy forcibly take your money you will never get it back and your family and children will be destroyed in case of their attack. Who will then enjoy your wealth ?

¹ Śukra Niti, p. 27 and 138.

² Rājadharmānuśāsana Parva, 87.

³ Anuśāsana Parva, 61.

You are like my children and I become highly pleased to see your prosperity. I am, therefore, appealing to you for funds at this time of distress. Do you put a stop to this trouble to the state by subscribing funds according to your might. Money should not be considered dear at times of danger.”¹

The Dīgha Nikāya supplies the kings appeal for a sacrifice. Mr. Jayaswal has given this form of demand—

“I intend to offer a great sacrifice. Let the gentlemen (venerable ones, according to Rhys Davids) give their sanction to what will be to me for weal and welfare.”²

If the Paura-Janapada bodies give their sanction, the king was to prepare and perform the sacrifice and the country had to pay a tax for it.³

Śukra also furnishes an example of the king's procedure against danger in approaching the people for money-grants. It seems to be in imitation of the Epic both in form and matter and does not yield anything new. Its interest, however, is in the fact that the idea is preserved even down to the late age of Śukra. He advises that “in times of danger the king should call on the wisemen, the preceptors, brothers, friends, servants, relatives and councillors, and humbly consult their wishes in the proper manner.”⁴ The royal speech is to be like the following—

“I shall do away with the danger if you give me your counsels. You are my friends and not servants. I have no other sources of help besides you all.....I shall remember the benefit rendered by you and pay back the remainder after getting rid of the trouble.”⁵

¹ Rājadharmānuśāsana Parva, 87.

² Dīgha Nikāya, Kūṭadanta Sutta ; sec. 11 ; Hindu Polity II, p: 94.

³ Ibid.

⁴ Śukra Nīti, p. 265.

⁵ Ibid, p. 265.

The reference here is to the raising of subscriptions and loans or National Debt. The noticeable difference between the Epic and Śukra is that the appeal in the former is to the people in general and is more detailed and stressed, while in the latter it is merely like a gist and is addressed to those, who are closely attached to the king as his immediate associates and relatives. It indicates partial decay of the democratic attitude and a tendency to centralisation.

Kinds and Rates of Taxes

It is seen from the last section that there were several sources of income, which in their turn characterised the taxes paid to the state. They rose from the uses of articles by the tax-payers or the people in general. That the people were the ultimate source of revenue was a fact recognised probably long before varieties of taxes came into vogue. As early as the immediate post-Vedic period, it was realised that the burden of taxation fell quite naturally on the common masses. Hence the Śatapatha Brāhmaṇa declared that both "Brāhma (priesthood) and Kshātra (ruling power—nobility) depend upon the people."¹ In the Sāmhitā period "the Vaiśya is described as tributary to another."² The Mahābhārata and the Artha Śāstra of Kauṭilya entertain the same view, the former holding that "the king is always dependent on others," that is the subjects,³ and the latter stating expressly that "finance and army depend upon the people."⁴ The economic existence of the state is analysed backwards and is shown to be closely related to the business side of the life of the people, including, as far as it could, trade and commerce as they were in those ancient days. It is to be remembered under this context that the "measure and price

¹ Sat. Br. XI. 2, 7, 16.

² Mokshadharma Parva, 321.

³ Camb. Hist. of India, p. 128.

⁴ Artha Śāstra, p. 393.

of property should be subject to taxes" and not property itself of the people according to the rule of *Vaśishṭha*.¹

In the Vedic period *bali*, or tribute, is most prominently mentioned.² Principal Basu has pointed out that it meant religious offering as well, e. g. tribute to Indra, the king of the gods. "The word *bali* has frequently been used to signify offerings to gods, but *bali-hṛit* (tax-bearing) could not but have meant tribute to the king".³—"a contribution paid by the people to the king"⁴ according to Dr. Ghosal. Nothing is mentioned in the *Rig Veda* as to the rate of this tax. Perhaps the time was not quite mature. Zimmer has therefore remarked that "fixed taxes the people did not pay the king : they brought to him voluntary presents". He compared this with the old Germanic conditions mentioned in Tacitus, *Germania* 15.⁵ But a passage in the *Atharva Veda* gives a clue, or at least a gesture, which can be utilised advantageously for explaining the difficulty. The *Atharva Veda* has it as—

"When yonder kings, who sit beside Yama, divide

Among themselves the sixteenth part of hopes fulfilled."⁶ Griffith says that it is for "immunity from taxation in the next world"⁷ by means of sacrificial rites. It is certainly a reflection of the condition in this sub-lunar world and beautifully suggests by the phrase "hopes fulfilled" the precarious harvesting prospects in an agricultural country like India. The same *Veda* explains further—

"The wealth which husbandmen aforetime, digging
like men
Who found their food, with knowledge, buried (as seed-corn),

¹ *Vaśishṭha Samhitā*, XVII, p. 803, Dutta's Trans.

² *Rig Veda*, V. 1. 10, VII. 100, 9.

³ *Indo Aryan Polity*, p. 79.

⁴ *Hindu Rev. System*, p. 5.

⁵ *Altindisches Leben*, p. 166. See p. 218.

⁶ *Atharva Veda*, III, 291. V. 1. p. 124. Griffith's Trans. Also Cf. the three "*ṛiṇas*" or debts well-known in Sanskrit Literature.

⁷ *Ibid.*

This to the king, Vivasvan's son (Yama), I offer,

Sweet be our food and fit for sacrificing!"¹

Dr. Ghosal has cited Hymn III, 29 of the Atharvaveda to show the one-sixteenth rate of taxation in the Vedic time.²

As regards the Buddhist time, Fick has likewise observed that "So far as I have seen, the Jātakas contain no fixed rule concerning the nature of these taxes, nor concerning the amount of the king's share."³ But it is to be remembered that the Buddhist tradition has parallel to itself the dictates of the law-books. The Voltairic taunt of the Buddhist monk, Aryadeva, at an unknown Frederick is a remarkable example, proving the dependence of the king on the sixth portion of the produce of the people.⁴ Again, although the Jātakas have no reference to such a rule, the Mahāvastu mentions this time-honoured and classical proportion from the very foundation of the state.⁵ All this may be due more or less to Hindu influence, but nothing but time seems to account for the increased rate from the Vedic to the Buddhist time. The Cambridge History of India, following V. A. Smith, indicates one sixth to one sixteenth rate in the Buddhist time.⁶ The Greek account based on Magasthenes shows one fourth of produce in addition to rent and ten percent charges on sales.⁷

In the period of the law-books exhaustive details are provided by Gautama, Manu and Vishṇu, including both direct and indirect taxes. Gautama gives the following scale.—

¹ Ibid, VI. 116, Vol. 1. p. 309.

² Hindu Rev. System, 1929, p. 5. Also see writer's article on Taxation in Indian Historical Quarterly, Calcutta, 1926.

³ Fick's Social Organisation &c. p. 116, Dr. Maitra's Trans.

⁴ Supra, Pol. Auth. II, Ch. IV; Chatuṣṣatika, p. 461.

⁵ Mahāvastu, Senart's Ed. Vol. 1, pp. 347-348.

⁶ Cambridge Hist. of India, p. 199; V. A. Smith, J. R. A. S. 1897, pp. 618 ff.

⁷ Ibid, pp. 410, 418.

"Cultivators should pay a tenth, eighth or a sixth part of their produce as revenue.....a fiftieth part of profit on animals and gold ; a twentieth part of the profit on trade and a sixth part of that made on fruit, honey, flowers, medicines and bulbs."¹

Vishṇu's procedure is similar with slight differences here and there—

"One sixth of paddy, similarly in respect of all food grains ; two per cent on animals, gold and clothes ; one sixth of meat, honey, clarified butter, medicinal herbs, scents, flowers, fruits, timbers, leaves, deer-skins, earthen vessels, (baked), unbaked vessels, and bamboo works ; one tenth profit on indigenous articles and twentieth of that on imported articles." Confiscation of goods is enjoined on non-payment.²

Manu has the following rates—

"One sixth or eighth or twelfth part of paddy or grains after due consideration of the strength of the soil, needs of cultivation and extent of labour ; one fiftieth of animals and gold ; one sixth of the profits on the sale of the seventeen kinds of goods, viz., trees, meat, honey, clarified butter, scents, plants, vegetables, juice, flowers, fruits, leaves, roots, grass, wicker-work, earthen vessels and those of leather, and stone articles.³ And one-twentieth of the sale proceeds from traders.⁴

The Mahābhārata recognises without much particularisation—

"One sixth part of grains and custom"⁵ one tenth of paddy, one fiftieth of animals and gold.⁶ It also

¹ Gautama Saṁhitā, X, p. 678, Dutt's Trans. ; S. B. E. II, p. 320.

² Vishṇu Saṁhitā, III. p. 820. Dutta's Trans.

³ Manu Saṁhitā, VII. 130, 132.

⁴ Ibid, VIII, 398.

⁵ Śānti Parva, 71.

⁶ Ibid, 67.

adds things needed for the personal use of the king,¹ as well as import and export duties, fines and forfeiture²

Thus the Epic adds to the law books something which is not there. This is a decided advance but does not stand on par with what is to be found in Kaṭilya's Artha-Śāstra.³ The following details show the highly technical and specialised treatment, never found elsewhere within the limits of Indian Political Literature.

The kinds of taxes noticed in the Artha-Śāstra are roughly indicated, their subdivisions being left out—

“Revenue from forts, country-parts, mines, build-ings, gardens, forests, cattle, roads, imports, exports, and port-towns, and special taxes.”⁴

Something of the rates may be seen here like the above—

“Taxes that are fixed (piṇḍākāra), that are paid in form of one sixth of the produce (saḍbhāga), provisions for the army (senābhakta), taxes that are levied for religious purposes (bali), tribute from vassal kings and others (kara), special collection on the birth of a prince (utsaṅga), taxes from margins (parasva), compensation from damages (parihinaka), presentation to the king (aupāyanika), taxes on lands below lakes, tanks, etc. built by state (kaushṭheyaka).⁵

Kāmandaka mentions eight sources of revenue purely in imitation of Kaṭilya's Artha Śāstra—

“Agriculture, communications (to facilitate commercial traffic) entrenchment of strong-hold for soldiers in the capital (for protecting merchants), construction of dams and bridges across rivers, erections of enclosures for elephants, working of mines and quarries,

¹ Ibid.

² Ibid, 71, 10 ; Hindu Polity, Pt. II. p. 162,

³ See Indian Antiquary, Vol. XXXIV, 1905. Dr. Sama Sastry's articles on the subject. ⁴ Artha Śāstra, pp. 65, 118, 119, 156, 303.

⁵ Ibid, pp. 112, 113

felling and selling timber, and the peopling of uninhabited tracts—these eight-fold sources of revenue the sovereign should ever enhance.”¹

Śukra allows—

“Sulka (duty) from market-places, streets, and mines and from usury, the king’s share being the thirty-second part, or the twentieth or sixteenth part—similarly one third, one fourth, and the half from places irrigated by tanks, rivers etc. ; one sixth from barren and rocky soils ; half of gold, one third of silver, one fourth of copper, one sixth of zinc and iron, half of gems, glass, lead, after expenses have been met.”²

Although there is none the least uniformity in the rates of taxation in any period, or in the different authorities of different periods, they are interesting in the sense that they illustrate how revenue used to be collected by the ancients and how they calculated the proportions. Many other points of economic interest are inlaid in these dry lists of things and materials and the charges on them, but they do not concern political philosophy proper or the theories regarding them.

It is noticeable, that even if no *permanent settlement* was available in the days of yore, the rates were looked upon as pretty fixed on a vague average. This can be easily understood from a dictum of the Mahābhārata—important as it is in more senses than one—where a king is called a “nṛīṣaṁsa,” (a mean injurer of men), who raises tax higher than what it used to be in the reign of previous monarchs, that is in the past.³ Śukra has also the remark

¹ Nīti Sāra, p. 60,

² Śukra Nīti, pp. 147 & 148. Cf. Sarkar, *Positive Background of Hindu Sociology*, p. 116.

³ Udyoga Parva, 42. It is said that “a king, who collects tax unjustly, is a eunuch”—Āpaddharma Parva, 142.

that "people do not like new taxes" generally.¹ Of course no rule could have been laid down on a thin basis like the above, but it was certain that even in taxation a rough customary calculation had sufficient influence on the minds of the people. An extreme "nṛśāmsa" could thus through greed and headiness upset the balance of the state. The whole question really involved the change of rates from past ones to the immediate demands.²

Labour as Tax

Tax rendered in the shape of *labour* was a common method of payment, countenanced in the law-books and other political literature, as parallel to payment in *kind*. The king was empowered to have manual work by turns from all artisans and labourers, or these who had to live by labour.³ It is not certain what status these people had in the state. Most probably the principle was not to touch their earning, either because it was very small, or for the purpose of encouraging their respective vocations. Nothing can also be said with certainty as to what was exactly meant by insisting on payment by labour, although it had its positive utility and object for the time. Yet it ought to be considered as a special kind of tax, but its rates would not be different and various enough to be traced out here. Manu's standard is one day per month, as of Gautama and Śukra's one day per fortnight.⁴

Spiritual Tax

Spiritual Tax is uniquely and essentially a Hindu conception rising out of the intimate relation and reciprocity between the king and the people. It has been

¹ Śukra Niti, p. 89. ² See Supra, Ch. VI, Resistance & Revolution.

³ Gautama, X. p. 679; Manu Saṁhitā, VII, 138. Rājadharmānuśāsana Parva 79. Artha Śāstra, pp. 140 and 142; Śukra Niti, p. 148.

⁴ Manu Saṁhitā, VII, 138. Gautama, X. p. 679; Śukra Niti, p. 148. Camb. Hist. of India, p. 246,

already incidentally alluded to in Chapter II on the Nature of Kingship and is detailed out in Chapter XIV on the Philosophy of Dharma. Although it has no material value, nor any economic significance, still it is closely associated with the policy of the state in its important issues in determining the character of the people. Hopkins has indicated that "the royal tax is not only in kind, material, but also spiritual."¹ In all probability this idea comes from the natural expectation of having a share of the prosperity of the people, first material, then spiritual ; the first is tapped by taxation as usual, and the second holds good in theory only. Certainly the king is the partaker of the fame and fortune of his people, and this may be extended to the spiritual sphere as well.

Mr. Jayaswal has traced this kind of tax to the Vedic time when the priest was supposed to pay taxes in the shape of religious merit.² In the contract theory of the Mahābhārata this tax is mentioned last of all together with the other kinds of taxes. It is instituted with the contract itself and in fact is a part of it. So it is said—

"You will get one-fourth of the religious merit of those religious works, which we shall perform being protected by your prowess."³

This share and its exact proportion are both repeated more than once in the Epic, showing that it was well accepted at the time.⁴ Manu says "the king gets the sixth part of the spiritual good (dharma) of his subjects well protected".⁵ Baudhāyana and even Somadeva Surī have the same rule.⁶ An important reservation is also mentioned by the Epic, so as to make the theory of spiritual taxation

¹ Ethics of India, p. 108.

² Manu and Yājñavalkya, p. 101.

³ Rājadharmānuśāsana Parva, 67. ⁴ Ibid, 72, 75 ; Udyoga Parva, 130.

⁵ Manu Śāṃhitā, VIII, 304, p. 489.

⁶ Vide above ; Nītivākyāmṛitam, 7, p. 88.

operative in both ways. In case of bad protection, or misrule, one fourth of the people's sin would also go to the king as his portion.¹ Manu endorses it with one-sixth portion of the demerits of the subjects² and also the whole of their demerits on second thought³, on the simple principle of reciprocity. If he has the share of the merits, let him also have an equal share of the demerits, almost like the fisherman's reward in the fable going to the gate-keeper as his dues. The real point is that the king is responsible for the moral and spiritual progress and decay of the state in his charge.

Some of the law-books (Gautama, Yājñavalkya Vishnu), have the same idea as to the king's share in the merits and sins of the people.⁴ From the side of the people it is added that by paying tax to the king the subjects are exonerated from sin.⁵—that is to say non-payment of tax is a kind of sin. The whole theory is more canonical than political and economic.

Exceptions⁶ and Exemptions

Over and above the general processes of taxation dealing with principles and rates, there were necessary exemptions according to the nature of time and circumstances. A type of exception,—if it may really be so called—to the common rule already seen, was that the rich were heavily taxed from the Vedic time down to the age of

¹ Rājadharmānuśāsana Parva, 72.

² Manu Samhitā, VIII, 304, p. 489. ³ Ibid, VIII, 308, p. 490.

⁴ Gautama Samhitā, XI. p. 681, Vishnu Samhitā III. p. 820. Yājñavalkya Samhitā, p. 55, Dutt's Trans.

⁵ Parāśara Samhitā, II. 14, p. 545.

⁶ See author's article, "Principles of Hindu Taxation", in the Indian Historical Quarterly, 1926. Cf. Dr. Ghosal's "Hindu Revenue System," 1929, pp. 136 ff.

Śukra.¹ On the other end of the scale remissions were allowed as special cases unavoidable and unforeseen. The Brāhmaṇas as a class and women were generally free from all payments.² A short survey will elucidate the conditions underlying all such exceptional procedure.

The Mahābhārata emphatically forbids taxing when there is no rain and the crops have not grown. Poor men, children and women are exempted from taxation on the ground that they cannot earn anything. The following lines from the Epic bear on the point—

“If on account of draught people cultivate (their lands) by drawing water from wells (dug for the purpose), it will not be right for the king to tax them then. The king should carefully protect the poor, the old, the blind, and children. No tax should be taken from women, who are not in a position to pay. Tax on the slender means of the poor destroys the glory of the king and the state. Sin visits the king in whose kingdom children wistfully look at good food which they cannot get to eat.³ Surely the hungry looks of the poor burn mankind.”⁴

Manu has a qualifying statement in this respect, advising very light taxation in case of the poor.

“From the poor subjects, even those who live by selling vegetables, the king should take a little tax.”⁵

And there is also a slight hint as to the maintenance of the poor, helpless and those without any qualification (capacity for earning).⁶ It is no wonder that Śukra

¹ See Supra, also Ṛig Veda, 1, 65, 4. p. 90 ; Śukra Niti, p. 138.

² Camb. Hist. of Ind. p. 247. ³ Anuśāsana Parva, 61.

⁴ Ibid, 51.

⁵ Manu Samhitā, VII, 137.

⁶ Ibid, IX. 311.

considers Manu's scheme to be meant for the times of danger.¹ *Vaśishṭha* is similarly for taking a very small tax from artisans, but leaves free the aged, the widows, unmarried girls and students.² Further he adds that—

“There is no duty on livelihood gained by wit, nor on infants, nor on an emissary, nor on what is gained by begging, nor on the residue of a property left after a robbery, nor on a śrotiya, a religious mendicant, and a religious sacrifice.”³

Gautama remits duties when things are sold at a lesser price⁴ and so does *Śukra* when things are unsold.⁵ *Vaśishṭha* omits tax on rivers, grass, forests, mountains, and places for cremation.⁶ *Kauṭilya* has no tax in a number of cases, the most prominent among them being—

“Living in tracts of low or middle quality, acquiring uncultivated land, being a learned man, an orator, charitable and brave, having no subsistence, emergent occasions.”⁷

When Manu, *Vaśishṭha* and *Apastamba*⁸ are combined the list of exemptions will include—(1) the king's man, (2) the helpless, (3) an ascetic, (4) the old, (5) an infant, (6) a student, (7) women (widows, maidens and servants' wives), (8) a messenger, (9) *Śudras* (10) the infirm (blind, deaf, dumb and diseased). All such considerations go to show that the ancient law-givers and politicians tried to meet the demands of their times in regard to poverty and other economic conditions including failure, partial and otherwise, of business and similar incidents. The balance between economics and politics was maintained as

¹ See *Supra*, Rates &c.

² *Vaśishṭha Saṁhitā*, XVII. p. 804.

³ *Ibid.*

⁴ *Gautama Saṁhitā*, X* p. 679.

⁵ *Śukra Niti*, p. 147.

⁶ *Vaśishṭha Saṁhitā*, XVII. p. 804.

⁷ *Artha Śāstra*, pp. 52, 216, 302, 492.

⁸ Manu quoted by *Vaśishṭha*, XIX, 23, 24 ; *Apastamba*, II, 10, 25 ; *Hindu Rev. System*, p. 139.

fairly as possible, since both are so related as to react mutually at all times and under all circumstances.

The question of the Brāhmaṇas' immunity from taxation coming down from the days of the Śatapatha Brāhmaṇa¹ deserves special attention and treatment. According to Mr. Jayaswal such immunity began earlier in the Vedic priest's freedom from payment of ferry dues on the ground of his contributing religious merit.² Old as the custom is, it is a point which has often been suspected to be economically unsound and partial in principle.³ Kauṭilya, who has even the "hermit's tax,"⁴ is not willing to make any the least allowance on any ground. Somadeva in his Nītivākyaṃṛitaṃ⁵ also uses similar language and that exactly on the same principle. But the exemption has a value and economic importance, although it is by no means absolute. It is admitted everywhere in Hindu Politics and is accepted as such⁶ by the law-givers, having at the same time that reservation which preserved the rule but stopped or at least obstructed abuse. In fact it really turns on and is conditioned by actual and proper Brāhmaṇical functions and duties, and is in this sense somewhat like the "utilities" mentioned by Mill,⁷

¹ Sat. Br. V. 3. 3. 12 ff. V. 4. 2. 3. ff, SBE. XLI, pp. 72. 95.

² Manu and Yājñavalkya, p. 104.

³ See Dr. Law's Anc. Ind. Polity, p. 150.

⁴ Artha Śāstra, p. 26.

⁵ "Even those practising austerities in the forest and living by gleanings from the fields pay one-sixth of it to the king. It is the share of him who protects them" (Nītivākyaṃṛitaṃ, VII. p. 88, vide Hindu Polity II. p. 33).

⁶ Gautama Saṃhitā, X. p. 679; Vaśiṣṭha Saṃhitā XVII. p. 803; Vishṇu Saṃhitā, III. p. 820; Rājadharmānuśāsana Parva 71; Moksha-dharma Parva, 132; Manu Saṃhitā, VII 133; Artha Śāstra, pp. 52, 302; Śukra Niti, pp. 263 and 269 (indirectly).

⁷ Mill, Prin. of Pol. Econ., p. 29.

The orthodox canonical writers explain the Brāhmaṇical privilege by the idea of exchange. The Brāhmaṇa's gift of religious merits, was assumed to take the place of taxes. As exhibited below these religious merits probably involved study, teaching, writing and other cultural (philosophical and scientific) activities besides sacrificial rites. So says Manu supported by Āpastamba, Viṣṇu, Vāśiṣṭha and Bṛihaspati—

“He (the king) shall not collect revenue from Brāhmaṇas, for they give virtue as tax unto the king.”¹

“The Śrotriya's daily religious work, when properly supported by king, gives prosperity to the state and wealth and long life to the king himself.”²

“It is said that the Brāhmaṇa first made the Vedas known ; the Brāhmaṇa saves (one) from misfortune. Therefore a Brāhmaṇa shall not be made to pay taxes.”³

But the heterodox thought of the Mahābhārata qualifies the above assertion by adding that—

“Those Brāhmaṇas, who are not śrotriyas (i.e. learned and pious), nor have the household fire going, should be taxed by the king and set to work without pay.”⁴

Moreover even a later work as the Devī Bhāgavata recommends the same radical procedure with regard to a Brāhmaṇa, who does not discharge his duties and does not do the function for which he is meant in society. As a matter of course the Brāhmaṇa has his own well-mapped-out social obligation. Disregard of this brings him within the operation of the drastic rule, in the Devī Bhāgavata and the Harivaṁśa, which runs as follows—

¹ Viṣṇu Saṁhitā, III, p. 820. S. B. E. VII, p. 16.

² Manu Saṁhitā, VII, 136.

³ Vāśiṣṭha Saṁhitā, I. p. 753, Dutt's Tr. ; Bṛihaspati (17, 3. p. 347) has the same idea; also Āpastamba, II, 10, 26.

⁴ Rājadharmānuśāsana Parva, 77.

"The king ought to consider as Śūdra that Brāhmaṇa in his kingdom, who is devoid of the Vedas (i.e. Vedic knowledge) and is unlearned and therefore fit to be taxed (like the other castes) and set to ploughing the land.,'¹

"But a Brāhmaṇa, who has no touch with Vedic learning, should be forced to do the works of the Śūdra by all righteous kings ;.....he is to be counted a non-Brāhmaṇa."²

Even the great champion of Brāhmaṇism, Manu, advises royal support of Brāhmaṇas after the proper examination of their works and conduct,³ and Brahmanical works and conduct are too well known to require any comment. Parāśara goes so far as to prescribe punishment for Brāhmaṇas, who do not study and teach but live on charity.⁴ A comparison with Mill's statement will bring out the principle underlying Brāhminical immunity—

"As to the Utilities fixed and embodied in human beings—the labour being in this case employed in conferring on human beings qualities, which render them serviceable to themselves and others. To this class belongs the labour of all concerned in education, not only school-masters, tutors and professors, but..... *moralists and clergymen as far as productive of benefit*, physicians as far as instrumental in preserving life and physical and mental efficiency, the labour of various trades, sciences and arts.....and all labour bestowed by any person throughout life in improving knowledge or cultivating the bodily or mental faculties of themselves and others."⁵

¹ Devī Bhagavata, p. 111.

² Harivaṁśa, Viṣṇu Parva, p. 29.

³ Manu Saṁhitā, VII, 133.

⁴ Parāśara Smṛiti, I, 33 ; XI. 56 Theory of Govt. in Anc. Ind., p. 180.

⁵ Mill's Princ. of Pol. Econ., p. 29.

The regulations about taxing Brāhmaṇas, therefore, yield to the general rule of unproductive labour. Reading between the lines, it becomes clear that no one was allowed to lie fallow, that is labour from all in some shape or other was necessary for social good and the maintenance of the state. The Brāhmaṇa could not be allowed to cause economic loss to society and the state. He had to be useful in some way, either by plying his own legitimate vocation or by doing other works. That the state had the power of forcing the highest caste to be really and directly productive, in default of all the utilities for which it was left free to itself, shows a thorough grasp of sound economics. Certainly this economic truth had to be perceived and worked out, before it could be promulgated as a principle and enacted as law. Mr. Jayaswal thinks there was a difference between the Dharma School and the Artha School of law-givers on this principle of taxing Brāhmaṇas, the former being traditionally orthodox naturally opposed such levy, while the latter supported it as a governmental necessity.¹

¹ Hindu Polity 11, p. 32.

CHAPTER XIV

PHILOSOPHY OF DHARMA¹

Definition and Scope

Law is genetically connected with custom and usage, but with abstract truth, so far as its nature is concerned. Law expresses the truth underlying creation and conduct and is thus a standard or ideal. Mr. Arobinda Ghose has characterised it as an "impersonal authority sacred and eternal in its spirit and the totality of its body".² It is the sanction for and at the same time the evaluation of *daṇḍa*, or state authority, since the state would be blind without it, in the absence of some form of guidance and direction. The state upholds it for its nature, which helps the state to realise some truth, or part of it, within its jurisdiction. Whether metaphysical or empirical, its normative character is correlated with the doctrine of *daṇḍa*, as power over individuals living in society and this constitutes its positive side. "The object of law (*dharma*) and its administration", says Mr. Jayaswal "is the maintenance of peace and order in the community according to the *Mānava Code* (VII, 22 ; 18 ; 20)."³

Dharma is defined in the Epic from its root "*dhṛi*", to hold—"it is called *dharma* because it holds (contains and sustains) all beings"³ with a direct reference to

¹ N. B. For the technical uses of *dharma*, see Central Conception of Buddhism, 74 ; Buddhist Psychology (Introduction) ; History of Indian Philosophy, Pp. 316-317. Ordinarily it is taken to mean *law*.

² A Def. of Ind. Cul., Arya, Det, 1920, p. 175.

³ *Manu and Yājñavalkya*, p. 80.

⁴ *Karṇa Parva*, 70. This is universally accepted as the meaning of *Dharma* as well as its function.

society at large. "Such a conception must have arisen very early in the formation and growth of the association of individuals in societies.....covering every form of human action" says Dr. Thomas.¹ It has a simultaneously collective and individualistic significance, because it is the universal which expresses itself in and through the particulars. Dr. Beni Prasad speaks of it as the great "harmonising principle, the ruling force, the foundation of social order." As an inner impulse it urges all towards reasonable standards of life and conduct and as a creation of the social spirit it emanates from the whole to be impressed on the individual. The unity behind law shows it in relation to morals and society, for without law they are liable to lose their reality and security. Yet law needs to be explained as to its permanency, authority and operation, since "it is means for realising in a particular way some ends derived from the different interests of life".³ The Mahābhārata has consequently recommended "the justification of law (dharma) through critical reason"⁴ To discover "the legality of law",⁵ is what is wanted to explain law satisfactorily.

The Basis of Law

Metaphysical View

As the expression of system or order Law was the sublime theme of the Vedic time. It supplied the basis of ethical and social ideas reflecting itself in the concrete social order as well as in custom and usage, and probably it was known in its narrower sense through the dictates of the Vedic Assembly, which was a national institution

¹ Thomas, Life of Buddha, p 173. ² Theo. of Govt. in Anc. Ind. p 19.

³ Spirit of Hindu Law, A. C. Gupta, Cal. Law Journal, XLIII, Jan. 1926, p. 10.

⁴ Rājadharmānuśāsana Parva, 141, 142.

⁵ A Grammar of Politics, p. 251.

representing society in general. But its abstract foundation engaged the most poetic and lofty vision of the sages. It was thus idealised to the highest, while the stages of the process of idealisation gave glimpses of real philosophic depth regarding the meaning of the world order as a whole. A type of philosophy of law is traced in the ancient Vedic literature, yet unexpanded into schools.

Law (dharma) is used in two senses, closely related to each other in ancient Indian thought. "To maintain law in its wider sense, all its legislative activity had to be guided and controlled by the existence of law as an ideal"¹ according to Mr. Aiyengar. It is exactly here that the philosophy of law intervenes and shows the higher reaches of legal thought. Rising from the idea of order in the Vedas, it spreads over all fields of human activity. The gods of the earliest ages all stood for order or system of some kind in their own spheres.² Their decrees and statutes, whether of Varuṇa, the Ethical god, or of Indra, the national god, meant regulative principles of nature and society. The projection of this idea into all departments of human life was only a natural and legitimate procedure for the early thinkers. They saw order everywhere in the world and declared "order dwells amongst men, in truth, in noblest places,"³ After this, the foundation of moral, social and political law was laid down for ever.

Max Muller contends that "in the Vedic hymns *rita*, meaning the order of the heavenly movements, became in time the name for moral order and righteousness."⁴ The character of this ever-present harmony in the

¹ Aiyengar, *Ancient Indian Polity*, p. 63.

² Griswold, *Religion of the R̥g Veda*, pp. 108, 174.

³ *R̥g Veda*, IV. 40, Dutt's Trans.

⁴ Hibbert Lect. 1878, p. 235.

universe is described as "of *rita* (order) sure and firm-set are the bases."¹ Its moral effect is that "the thought of *rita* slayeth crookedness."² Professor Radhakrishnan says "it stands for law in general and the immanence of justice...it corresponds to the universals of Plato....It is the *satya* or truth of things."³ "It manifests equally in nature and in human society."⁴ To the Ṛig Vedic Hindus there was no dualism between nature and man. "The conception of *ṛita* was transplanted from the material to the spiritual world, or rather there was but one *ṛita* for both nature and man."⁵ "Human laws only reflect the laws of gods, the first effect of law is that it binds men together."⁶

Backed up by this conception of the Vedic seers, the abstract side of law was developed philosophically. It was law which led to truth ever-lasting as it is,⁷ yielding a sense of non-changing permanency. It is said "by law they came to truth"⁸ and then both are identified as one. Thus "Truth is the Sun's extended light...Truth is the base that bears the earth."⁹ Again "Law and truth are of fervour"¹⁰ (*tapas*) being two sides of one reality. In the Atharva Veda law is above the gods,—"the home and life of the gods."¹¹ It was a mysterious entity to the early Vedic mind, but still a metaphysical reality to be elaborated later in philosophical language by the writers of the great Upanishads.

Leaving aside all figurative clothing, the Upanishads proceeded in the spirit of pure philosophy and declared

¹ Ṛig Veda, V. 8. Griffith's Trans.

² Ibid. V. 9.

³ Ind. Philosophy, pp. 78, 79, 109.

⁴ Hindu View of Life, p. 72.

⁵ Stud. in Hin. Pol. Tho. p. 101.

⁶ Ethics of India, p. 38.

⁷ Ṛig Veda VII, 39, IX. 74.

⁸ Ibid, VII 56.

⁹ Ibid, I. 105 ; X. 35. "Satyaṁ tātāna sūryyo vittaṁ...satyonotta-bhitā bhūmih." (Lahiri's Ed. pp. 459, 267).

¹⁰ Ibid, X. 190. "Ṛitaṁ cha satyaṁ chābhiddhātāpasodhya jāyata." (Lahiri's Ed. p. 836).

¹¹ II. 1 ; Cf. Ṛig-Veda, X. 65.

the truth that is the one abiding reality, and law and order, and everything of harmony and interconnection are all merged into it, merely as its different phases. In this period the word *ṛita* seems to be definitely replaced by the word *dharma*, the former being simpler as the latter is highly complex, but the conceptions are closely parallel. And both are found in the *Rig* and the *Atharva Vedas*.¹ "The twin conceptions of law and order, *dharma*, *ṛita*, are intimately connected.....logically related to each other...and tend to merge into each other, for law in the scientific sense of sequence and co-existence is another name for order and harmony."² The advance on Vedic thought consists in more abstract procedure and better analysis. If law and order are analysed the remainder is abstract truth ; that which is true in law and order is truth, that is law is truth. And nothing but truth endures, for truth is the measure of the degrees and extent of reality. Law is powerful and lasting because it pertains to truth. It was the age of the solidification of thought and the *Bṛihadāranyka Upanishad* (I. 4. 11-14) crystallised the idea almost to finality in its famous passage quoted below—

"*Brahmā* (the supreme Being) created the most excellent law. Law is the king of kings.³ Therefore there is nothing higher than law. Thenceforth even a weak man rules with the help of law as with the help of a king. And if a man declares what is true, they say he declares law, and if he declares law they say he declares what is true.⁴ Both are the same."⁵

¹ Vedic Index, I, p. 86.

² Studies in Hindu Political Thought, p. 99.

³ Cf. *Rājovādavoggu*, *Aṅguttara Nikāya*—*Dhamma* is *raññorājā*.

⁴ Cf. Dr. Barua's *Pre-Buddhistic Philosophy* on the relation between truth and law and the meaning of truth, pp. 87, 335-6.

⁵ I, 4. 11-14, R. C. Dutt's Trans.

Again—

“Law (dharma) is the honey (sweetness) of all beings...and the lustrous, deathless spiritual being in it is....Brahman.”¹

This is but another way of asserting that moral authority imbedded in law is metaphysical in character. In the Upanishadic treatment it is noticeable that the law-givers are called the declarers of truth, law and truth being definitely identified as the same. All the later law-makers followed this stand-point if they wanted to be idealistic and not simply empirical. The old Vedic idea of order in the very heart of the world is spiritualised in the Chhândyoga Upanishad, which puts the whole matter pithily in a short sentence—“So the whole world has truth as its soul—that is reality.”² Hopkins says “Dharma is employed to characterise the very nature of God” and is “the form of God.”³

The Buddhist period really strengthened and deepened the ideal of law handed down through the ages, and the Buddhist conception of law, though essentially moral in nature, also shows the metaphysical tendency observed in the Upanishads. The Great Buddha announced “that truth eternally exists whether he had appeared in the world or not.”⁴ This is nothing different from the Upanishadic conception. Tachibana has observed that “the most frequently recurring passage explaining the nature of dhamma is: “Well proclaimed by the Exalted One is the dhamma as bearing on the present life, not

¹ Ibid, V. 11.

² VI, 6. 13.

³ Ethics of India, pp. 64. 135.

⁴ Samyutta-Nikāya, I, 140—This explanation fits well with the etymology of the word *truth* in Sanskrit. The root *as* from which truth (*satya*) is derived means *to be* as the root *bhu*. Hence truth really means that which is, i. e. what is real ; in other words truth and reality are one. (see Ch. I Origin of the State).

involving time, inviting all to come and see, to be understood by every wise man for himself."¹

Rhys Davids in a general way summarised the ideal — "dharma is not simply law, but that which underlies and includes the law—a word often most difficult to translate and best rendered by truth or righteousness."² Mrs. Rhys Davids has explained Dharma to "mean the normal, necessary and eternal order and law of all moral, spiritual things : it stood in place of a theodicy or cosmos created and carried on by a first and final cause."³ It functioned to some extent like the Necessity of Aeschylus, a Greek conception, which was used for explaining things and events.

The conception of dharma is the central point of the Buddhist doctrine. "In the light of this conception Buddhism discloses itself as a metaphysical theory, development out of one fundamental principle. But although the conception.....has given rise to an imposing structure in the shape of a consistent system of philosophy, its inmost nature remains a riddle. What is Dharma? It is inconceivable! It is subtle! No one will ever be able to tell what its real nature is! It is transcendental!"⁴ This is but an obvious admission that it eludes definition and determination and is therefore of the character of the absolute, in spite of the fact that it has been applied in many ways.

Exhaustive elaboration was given to it in the great Epic. The nature of Dharma (righteous law) is likewise highly generalised and becomes metaphysical at the last analysis. In the Mahābhārata dharma is at first said to be

¹ Samyutta Nikāya, P. T. S. Vol. V, pp. 319-90. Also Ethics of Buddhism, p. 171.

² Buddhism, p. 45.

³ Buddhism p. 35.

⁴ Stecherbatsky, Central Conception of Buddhism, p. 73, 75.

superficially based on justice and truth.¹ As such it is the good of all.² Ultimately all these are run into one another and Dharma becomes equal to uprightness (goodness),³ light (truth) and beauty.⁴ Further it is "the immortality of the gods,"⁵ that is immortality itself. Consequently the commentator, Nilakanṭha, has made it the very "cause of kaivalya" (salvation) in explaining the verse. The conclusion of the Epic verily goes back to the idea of the Atharva Veda. Figuratively it is spoken of as rising out of Nārāyaṇa (God) and "merging back into Him,"⁶ and is also asserted to be the ultimate salvation⁷ and its absence is death.⁸

Even Kauṭilya's empirical out-look had to yield that "Dharma (righteous law) is eternal truth holding sway over the world,"⁹ Much later in the Vyavahāra Darpana, closely in imitation of the Upanishadic style and thought, "Law is described to be something eternal and self-existent, the king of kings, far more powerful and right than they."¹⁰ Legal idealism handed down by the earliest speculations was thus maintained throughout, though it rose to its highest in the great Epic. It appears to be eternally ordained and imbedded in the constitution of the world and also capable of ascertainment partly by revelation and partly by enquiry in a reverential

¹ Udyoga Parva, 33 ; Rājdharmānuśāsana Parva, 85.

² Mokshadharma Parva, 262.

³ Anuśāsana Parva, 105.

⁴ Bhishma Parva, 23,—Cf. Matthew Arnold, who identifies perfection with sweetness and light, as well as with reason and God's will (Culture and Anarchy, p. 30), and Plato's idea of the Good.

⁵ Mokshadharma Parva, 193. "Dharmo.....devānāmaṛitaṁ divi" (Bengal Ed. p. 455). According to Nilkantha it is "Kaivalya kāraṇaṁ". (Bombay Ed, p. 28.)

⁶ Mokshadharma Parva, 348. "Antarddadhe tato bhūo nārāyaṇa-samāhitah (Bengal Ed. p. 871).

⁷ Āpaddharma Parva, 147.

⁸ Anuśāsana Parva, 61.

⁹ Artha Śāstra p. 191.

¹⁰ Pol. Theo. and Inst. of Hindus p. 208.

spirit into the very nature of reality. Professor Sen Gupta has remarked that this is the "Comprehensive idea of law, which is the dream and perhaps the despair of the sociological school of the modern philosophical jurists."¹ Here is found "the Oriental counter-part of the Greek, Stoic, Roman and Patristic conceptions of law."²

The distinction between the metaphysical and the theological origin of law was not evidently quite essential or important to the early Hindu mind, for law as the creation of God and law uncreated and eternal were run together, to yield a philosophy of law on the whole, from a total composite idea. There is a legitimate difference between law with the content of abstract truth and law which embodies the will of the creator or a sort of "divine positive law" in the words of Mr. Sen. But the creator's will cannot but be what is truth and the blending of the two views is a natural consequence, as in Demosthenes.

"There is no inherent contradiction between the two conceptions of the origin of law, viz., theological and metaphysical—it is a fine combination of objectivism and subjectivism."³ The value of such idealisation of law lies in the fact that it supplies the notion of standard that will not suffer decay, but strengthen and support justice by impinging on every act of the individual and society. The ideal is absolute and universal, in order that its application might be effective in all the particulars. Almost all types of sanction in Hindu legal thought tend invariably to refer back to it, in some way or other, for validity and to resolve themselves ultimately to the apperception of the immutable right, called righteousness in general. Professor Mukherjee holds that "The Hindu Philosophy

¹ Sources of Law & Society, p. 26,

² Pol. Theo. & Inst. of Hindus p. 208.

³ Stud. in Hin. Pol. Th. p. 112.

of Law was absolute and universal, though there was recognised the relativity of codes applicable to particular communities, guilds, corporations, or even strata of culture. The underlying principle dominating and guiding them was based on universal and immutable dharma".¹

Empirical View

Apart from the philosophic treatment given already, there is another line of thought, which does not care so much for the content of dharma, as for its practical rise in society through human agency, evidently answering to the changes and variations of time and circumstances and the required adjustments to them. The Bhāgavata Purāṇa has shown dharma to be the product of human need, for "dharma is created according to the nature of men".² "In every age in this world men of different natures are born and for them different types of dharma are created as well".³ This is endorsed by Parāśara.⁴ This pragmatic characterisation is necessarily followed by other empirical considerations. According to Mr. Jayaswal "the Artha-Śāstra School held that Law was a human creation, a creation of society, of thinkers, as asserted by Śukra Niti (IV. 5. 164) in clearest accents".⁵

In the opinion of Mitra Miśra "the confusion of right and wrong is the cause of law"⁶, and this conclusion is drawn on the authority of Manu and other ancient law-givers⁷, such as Nārada and Bṛihaspati.⁸ Its highly practical nature is clearly evident, for it aims at the proper adjustment of relations in society, without which there will

¹ Democracies of the East, p. 127.

² Bhāgavata Purāṇa, VII, 14.

³ Ibid, VII, 11.

⁴ Parāśara I, 33 ; XI, 50 vide Theo. of Govt. in Anc. Ind. p. 180.

⁵ Manu and Yājñavalkya, p. 184.

⁶ Viramitrodaya, p. 3—Vyavahāra section ; Vidyāsāgara's Ed.

⁷ Ibid.

⁸ Nārada, I. 1 (S. B. E.) ; Bṛihaspati, I. 1. (S. B. E.)

be no order or peace. It subserves certain ends—"a feature which distinguishes the conception of law as of human origin from that of non-human origin",¹ though the consciousness of end is a matter of slow growth. It would be the empirical basis of law in the sense that it does not go backwards enough, but rests with the human stage of it, which is seen in pronounced collective opinion solidified into codes.

The popular character of law is primarily observed in the contract basis of the state² in which "dharma (law) is created to put a stop to the harm done by the harmful-natured men".³ In early Aryan society Law was invariably looked upon as founded on the twin roots of religion and agreement of men learned in sacred lore.⁴ The ancient parishads or assemblies of Brāhmaṇas functioned to declare law from this point of view, and the Brāhmaṇas were the makers of law.⁵ In a more positive way the principle of agreement would apply to the statutes of corporate bodies, such as guilds and corporations, which were states within the state with full recognition of their power and status. Mr. Jayaswal thinks, "they are really the resolutions of these bodies and had the force of law".⁶

(a) Generally considered both Āpastamba and Gautama have acknowledged this principle of agreement.⁷ Laws rising out of agreement are called "*Samaya-Chārīka*"

¹ Studies in Hindu Political Thought, p. 93.

² See Supra Ch. I, "Origin of the State".

³ Kārṇa Parva, 70.

⁴ Sources of Law and Society, pp. 44.

⁵ Rājadharmānuśāna Parva, 77 ; Manu, VIII, 391.

⁶ Hindu Polity, II, p. 106. *N.B.* This has been lately refuted by Dr. N. N. Law on very cogent grounds. It is evident that Dr. Law's criticism of texts and their substance reveals new meanings and relations, and thus does not logically allow the position held by Mr. Jayaswal (Indian Hist. Quarterly, June, 1926, p. 385).

⁷ Āpastamba, I. 1. 1 ; Gautama, VIII. 11.

rules, from the word *samaya*, which means an agreement. It is explained by Haradatta as "consisting of customs settled by human agreement".¹ Accordingly the character of law is determined by common consent, and law is based on it. Āpastamba makes it clearer by admitting that "so far as Samaya-Chārika rules are concerned the Vedas furnish very little guidance".² The whole idea of basing law on agreement is modern also in western thought, as in Locke, Hobbes and Rousseau. Under such exposition fall the definitions of law such as—

(1) "Law is what is unanimously approved in all countries by men of the Aryan society, who have been properly obedient to their teachers, who are aged, of subdued senses, neither given to avarice nor to hypocrisy".³

(2) "Law is whatever is practised and cherished at heart by the virtuous and the learned who are devoid of prejudice and passion".⁴

(3) "Law is the practice of the *śishtas*, i.e. those whose hearts are free from desire".⁵

A tacit agreement is assumed in these cases in the approvals and practices of those who are looked upon as guides and patterns, otherwise no standard could possibly be found for any kind of judgment. Even in discussing moral standards Jayanta Bhatta has referred to *Loka-prasiddhi*, or consensus, in the *Nyāyamañjarī*, as a criterion though of a secondary nature in general.⁶ But the rule of Śukra—"That is virtue (dharma), which is applauded by many and that is vice, which is cried down by all"⁷—shows the opinion of "compact majority", as opposed to

¹ Sources of Law & Society, p. 43.

² Āpastamba, II, 2. 29.

³ Āpastamba, I. 7. 20, Cf. "That is virtue which is applauded by many etc." (Śukra Niti, p. 264). See below.

⁴ Manu, II. 1.

⁵ Vāśishṭha I, 5-6 ; Baudhāyana, I. 1. 1. 4-6.

⁶ Ethics of the Hindus, p. 300.

⁷ Śukra Niti, p. 264.

that of the "cultured minority" of Āpastamba according to Mr. Sen.¹

Specific legislation by bodies of men associated together would fall into two divisions as given by Mr. Jayaswal—*Samaya* and *Samvid*. The first class is defined as "Law or resolution agreed upon in an assembly" (Āpastamba, II, 11, 29) and the second as "agreement or laws by agreement recorded in a roll". Thus they are not "*leges*", which were embodied in the Hindu common law, but were administrative statutes of fiscal and political nature.² It seems probable that *Samaya* was more general and powerful, applying to the whole country, while *Samvid* was particular and limited to groups and sections.

A further division of the *Samvid* agreement is pointed out by Mr. S. Row. In his view it is of two kinds—*Raja-kṛita* and *Samūha-kṛita*: that is either laid down by the king or by the different public bodies. "The body of learned men *created* by the king is called *Raja-kṛita Samūdāya*, and their prescribed course of duty is *Raja-kṛita Samvid*. The body of learned men *elected* by the people is called *Samūha* or *Samūdāya* and their prescribed course of duty is *Samūha-kṛita Samvid*".³ In both these instances a body of men comes into play for creating authority. "The fact of pluralism points to the conclusion that in the sūtra-period the fundamental back-ground on which even sacred law rested was agreement".⁴

(b) Another source of law (*dharma*) is the will of the sovereign, as in the Austinian sense, and in this respect it is determinate and definite positive law, like the laws of agreement which have the same character. Here is

¹ Studies in Hindu Pol. Thought, p. 121. Also see just above.

² Hindu Polity, I, p. 107. See the same author's "Manu & Yājñavalkya" p. 65.

³ Day of Democracy in Ind., p. 98.

⁴ Studies in Hindu Pol. Thought, p. 120.

“political sanction”¹ pure and simple, to use Bentham’s oft-quoted phrase. Mr. Jayaswal has shown that even in the *Mahābhāṣya* of Patañjali, (I. 1. 47), “the order of the ruler” has higher authority than the *Dharma-Sūtra-Kāras* (makers of legal aphorisms.)² The same strain is found in Kauṭilya, who is for accepting as law the “royal command enforced by sanction”.³ Speaking of such commands, he mentions “thirteen purposes for which royal writs are issued, and as regards their varieties he gives the following :—

“Writs of command, of information, of guidance, of remission, of license, of gift, of reply, of general proclamation”.⁴

The Epic endorses Kauṭilya’s view and states clearly that—

“Whatever he (the king) shall fix as *dharma* (law), is to be considered actual *dharma* (law)”.⁵

Nārada has shown the rise of (*vyavahāra*), positive law, because of the neglect of duty on the part of men,⁶ and Brihaspati has closely followed him.⁷ This tantamounts to positive law in the shape of king’s order, necessitated by the peoples’ conduct, who did not do their parts and were therefore forced to do them through the machinery of the state. Professor Sarkar says “the performance of duty having fallen into disuse, positive law (*vyavahāra*) has been introduced and the king as superintending the

¹ Principles of Morals and Legislation, III.

² Manu & Yājñavalkya, p. 72—Traditional Law naturally excludes king-made laws according to Manu (VIII. 8).

³ Artha-Śāstra, p. 82. Pol. Theo. & Inst. of Hindus, p. 209.

⁴ Artha Śāstra, p. 83.

⁵ Rājadharmānuśāsana Parva, p. 91. Cf. *Dharma* lies in “the dictates of good men and superiors” (Ādi Parva, 123 ; Vana Parva, 208).

⁶ Nārada, Intro. 1, 2. (S. B. E).

⁷ Brihaspati, I, 1. (S. B. E).

law is known as *daṇḍa-dhara*", or the inflicter of punishment¹. It is worthy of notice that Manu took a middle course in recommending the king to declare law, having first referred to sacred texts and old customs.² Bṛihaspati likewise says that "a decision must not be made solely by the letter of the written codes" ; "the reason of the law" and "immemorial usage" are also factors for consideration.³ The whole process may aptly be compared with the analysis of law given by Burns and the steps are unexpectedly parallel.⁴

Śukra, in spite of his wide outlook, seems to have walked in the steps of Kauṭilya in respect of positive law. He admits direct promulgation of laws by the king.⁵ Moreover these laws are to be given the widest publicity by means of drums and notices,⁶ backed up by the categorical statement that "I (the king) will surely destroy by severe punishment those offenders who after hearing these my decrees would act contrary to them".⁷ Hence the king has been fittingly called "the maker of the age", and with it of good and civil practices.⁸

The *Mimāṃsā* dictum, which is parallel to the views of Hobbes and Bentham, provides the most succinct defini-

¹ Pol. Theo. & Inst. of Hindus, p. 209.

² Manu, VIII, 41. But in VII, 13, Manu and his commentator have both accepted "*rajānujñā*" in the sense of positive law.

³ Quoted from *Vyavahāra-tattva*, in S. Roy's Customary Law, p. 17.

⁴ Democracy, Its Defects & Advantages, p. 83.—"Laws were regarded simply as statements of established custom by a specially inspired king. Laws in fact were not conceived to be made, but only to be acknowledged and expressed. When a re-statement of an old custom was seen to be inadequate, the only method of meeting the new needs was to use such actual governmental powers as existed, in order to set up a new system. But governmental power was autocratic by nature and laws were therefore regarded as the will of the sovereign."

⁵ Śukra Niti, p. 38.

⁶ Ibid, p. 43.

⁷ Ibid, p. 42.

⁸ Ibid, p. 132.

tion yet found of positive law in Hindu thought. According to Jaimini dharma is "Chodanālakshanortha" that is "that desired-for object which is characterised by command"¹. In substance it is just the Austinian concept that "laws are rules enjoining obedience".² "Jaimini has also examined the reason, as to why that which is determined by a command should be obligatory. He analyses the reason as lying in the fact, that the relation, between the word of command and the purpose to which it is directed, is eternally efficacious".³ Yet it needs to be added that "moral impulsion thus involves the agent's relation to the command, as well as his relation to the act commanded, but the latter is derivative, being mediated through the former relation, which is the revelation of law".⁴

In Nārada and Bṛihaspati, positive law is seen to be above all other laws and both are emphatic on this point. By their time it is certain that the power of the state was consolidated to a great, if not the greatest, extent. Nārada says—"Royal order over-rules such laws,"⁵ while Bṛihaspati adds that—"where the king, disregarding established usage, passes a sentence (according to his own inclination) it is called an edict."⁶

The question still remains open, as to how law is properly reached by a group or an individual, through agreement or command. What is there in the consensus of wise men to reveal law, and what is that of which a

¹ Jaimini, *Mīmāṃsā Sūtras*, 1. 1. 2. 2. Cited in *Hinduism* by Govinda Das, p. 73. *Pol. Theo. & Inst. of the Hindus*, p. 208. N.B. Dr. Maitra says, "a scriptural law (*chodā*) may be either a positive (*vidhi*) or a negative prohibition (*nishedha*). It relates to an *artha* or positive end in the first case and prescribes its accomplishment as duty; in the latter case it relates to some *anartha* or evil and prescribes abstention. (*Ethics of Hindus*, p. 175).

² Quoted in Vinogradoff's *Custom and Right*, p. 8.

³ *Pol. Theo. & Inst. of Hin.* p. 209. ⁴ *Ethics of the Hindus*, p. 143.

⁵ XVIII, 24, S. B. E. 33, p. 217 & 221. ⁶ II. 27, S. B. E., 33, p. 287.

lawful command is made ? The problem in this shape is epistemological and turns to the source of the knowledge of law, that is the mind of man, as capable of evolving it in course of its search for the immutable in the midst of change—a meaning for the manifold phases of experience, in short, a realisation which can give it satisfaction.

Rational View

Again, the source of dharma is said to be reason, in the sense of *higher reason*. The revelation of reason or conscience gives the knowledge or intuition of dharma, which is authoritative. It is called “self-satisfaction”, as different from deliberation as a logical process. Manu mentions this “atma-tushti”, as well as Yājñavalkya, and both agree that it leads to dharma, or in other words yields dharma in its own sphere—it being of the same order as the other sources of law in their treatment.¹ But they have not laid down any limitation to its application.

Medhātithi and Vijñāneśvara raised the point as to when it should be really and actually applied. As a matter of fact they doubt if conscience could be the absolute guide for the purpose of dharma. Medhātithi has, therefore, qualified it with the word “sādhunām”, that is of the good.² The conscience only of the virtuous is trustworthy. It becomes clearer when Kumārila’s criticism is subjoined, who shows that “Manu could not have contemplated the satisfaction of evil passions by atma-tushti”.³ On the contrary Vijñāneśvara allows self-satisfaction from conscience to operate in the field of alternatives, where choice can be made between a number of injunctions. He definitely says “it relates to optional matters.....

¹ Manu Samhitā, II, 6, 13 ; Yājñavalkya Samhitā, I. 7.

² Manu, Mandlik’s Ed. I, p. 100.

³ Sources of Law and Society in Anc. Ind. p. 84.

in selecting any one of the alternatives.”¹ Both commentators have thus kept within the sphere of orthodoxy by straining the point too much.

Manu, Yājñavalkya and Nārada have enunciated another principle, that of *discursive reason*. It is called “saṅkalpamūlakāmah” and “saṅkalpajakāmah”—desire rooted in or born of deliberation.² Here deliberation (or reasoning) is the prime factor in giving rise to dharma. It is made secondary indeed but it is nevertheless important. While Manu says “all dharmas.....are born of deliberation”, Yājñavalkya says they are rooted in deliberation. Medhātithi and Vijñāneśvara have for this the limitation that desire must not be “opposed to sacred law.”³

Nārada also upholds critical reason and gives it a place very significant from the stand-point of the proper adjustment of contradictory rules of the śāstras. It is reason which decides the case and elicits true dharma and is therefore equal to criticism and reconstruction of dharma. Nārada’s line is—

“In case of differences in dharma-śāstras, the right way is said to be with reason.”⁴

Bṛihaspati says—

“In case of conflict between two smṛitis, equity should be resorted to ; when the law-books are inapplicable that course should be followed which is indicated

¹ Mitāksharā, S. C. Vidyaratna’s Ed. p. 14.

² Manu Samhitā, II, 3, Yājñavalkya Samhitā, I, 7.

³ Mandalik’s Manu, I. p. 91. Vidyaratna’s Mitāksharā, p. 14. See Sources of Law & Society in Anc. Ind, p. 85.

⁴ Nārada, I. 40. “Dharma śāstra virodhetu Yuktivyuktavidhih smṛitah”. The high regard for reason is further illustrated to finality in the Yogavāsistha Rāmāyaṇa, where it is categorically asserted that “irrational words, when spoken by (the god) Brahmā himself, should be rejected like straw. Even man-made śāstra is acceptable if it is amenable to reason for indicating truth. (Mumukshu Prakaraṇa, 18, p. 60).

by the consideration of the circumstances of the case".¹

Dr. Sen Gupta has remarked on this position—"By putting it forward as a source of law the authors were not recognising any principle like the Equity of Rome or England, but simply laying down that law was rationally interpreted and applied".² Yet it seems that the Hindu legislators saw in reason a real constructive element which brought out some newness for dharma. The Epic has something to say on it starting with the assumption that "there are many doors to dharma".³ and that "dharma is a very subtle thing".⁴ "The more it is discussed the finer it becomes".⁵ Consequently "the truth of dharma has to be found out by reason".⁶ "The core of dharma is sought by the wise, just as hunters trace the bloody foot-marks of the wounded deer".⁷ They can find out true dharma by separating it from true adharma.⁸ Indeed "the wise gain dharma";⁹ and "the wise indicated many kinds of dharma by the power of knowledge".¹⁰ The supremacy of reason is established on the synthesis of conflicting experience—the high-road of philosophy which is fed by many tracks and path-ways from different quarters. But this type of reason is not the very last word in Hindu thought. It is subordinated to intuition or super-consciousness.

The knowledge of dharma is a corollary from the philosophical assumption of the source of dharma; it is not merely "self-satisfaction" spoken of above. Hence the question arises as to who knows dharma. The agreement basis of law is cut across by the great Epic, Yājñavalkya

¹ Brihaspati, XXVII, 2, (S. B. E).

² Sources of Law and Society, p. 82.

³ Mokshadharma Parva, 174.

⁵ Āpaddharma Parva, 136.

⁷ Ibid, 132.

⁹ Prajāgara Parva, 34.

⁴ Ibid 264.

⁶ Ibid.

⁸ Rājadharmānuśāsana Parva, 33.

¹⁰ Āpaddharma Parva, 160.

and Śukra, when it is said that even one competent man could declare law. Just as one valid instance is sufficient to establish causation, so is one really wise man enough to reveal authoritative dharma. Yājñavalkya says that dharma may be "that which even one person, who is best among the knowers of the spiritual science, declares".¹ Parāśara gives the same rule—

"Even a single Brāhmaṇa, who is a *muni* (sage) with a knowledge of his self and devoted to prayers, performances of Vedic sacrifices and ceremonial oblations, may constitute in himself an assembly (for declaring law) in his own individual capacity",²

Śukra allows a man to dictate under all circumstances if he is aware of dharma and śāstra—

"The man who knows dharma can speak whether appointed or un-appointed. He speaks the voice of God who knows the śāstra". "What only one man says can even be law, if he is spiritually minded",³

Thus the knowledge of dharma is at last but culture of the highest type, which is able to disclose the nature of ultimate reality. It depends on the "turning of the soul" in the language of Plato and this again is the pre-condition of the true philosopher. Truly "on the mind depends dharma and on the practice of dharma depends enlightenment".⁴ An intuition of this kind alone can reveal the true nature of righteousness. This has been designated "*dṛishti*" (vision) by Sten Konow, who thinks "that in India the highest ideas were evolved not as the result of reasoning or systematic constitution, but as a "*dṛishti*" or

¹ Yājñavalkya Samhitā, 1. 9.

² Parāśara Samhitā, VIII. 20.

³ Śukra Niti, 185, 186.

⁴ Ind. Phil. p. 423.

vision revealed to individual men",¹ though he does not mention how such vision was possible. Professor Mukherjee says that "Hindu Law is a system dominated by notions derived from psychology and philosophy.....it has tried to give expression to an abstract law, which transcends kings, judges, codes and even the community itself, and which the individual alone can realise in the pursuit of freedom, functional groups and associations being merely instruments to help the individual in the realisation of this end".²

Analysis and Application

Vijñāneśvara drew a legitimate distinction between Ethics and Law proper in his commentary on Yājñavalkya.³ Even though this is the right procedure from the technical stand-point, the whole trend of Hindu legislation is to reinforce law with moral ideals and imperatives. The minute technique of codified law does not naturally concern itself with the question of sanctions, so long as its demands are satisfied by what is ready to hand. Consequently its application assumes primary importance. But in analysing law into its various expressions in society, reference to ethical principles becomes necessary and unavoidable; for law is at last the moral judgement of the race as well as of the age.⁴ To find out the constituents

¹ New and Old Humanism, Mod. Rev., Sept. 1926. p. 243. Professor Radhakrishnan has struck the right meaning by calling it "Super-consciousness", to which many names are given—intuition, revelation, cosmic-consciousness, God-vision. "We cannot describe it adequately, so we call it the Super-consciousness" (Ind. Philosophy, II. p. 25). Cf. "Mystic Intuition" in Stecherbatsky's Conception of Buddhist Nirvana, p. 16.

² Democracies of the East, p. 128.

³ K. L. Sarkar, Rules of Interpretation in Hindu Law, Sec. X. p. 116.

⁴ Cf. Mackenzie, Outlines of Social Phil. p. 97.—"Laws are.....chiefly important as giving definiteness and permanence to the best traditions of a people, which must be engraven on their souls before they can have much efficacy on the statute books".

of law, or those manifestations of it, which are usually accepted unchallenged and unquestioned, it is pre-supposed that moral intuition, whatever be its metaphysical character and social vehicle, is at the back of the whole procedure as permanent base and constant support.¹ Its representation on the social and political planes is effected in various ways and that again according to the nature of circumstances. Thus it may be equated with custom, conduct, justice, duty and social good. These appear more or less important in proportion to their utility within the social structure and to the gradual advance of social thought.

(a) The most common expression of law is in *custom* in every country of the world. Both the Mahābhārata and the Manu Samhitā have emphasised its usefulness. The Epic says that dharma (law) rises from and resides in custom.² Similarly Manu has declared—

“Custom is the highest dharma dictated by śruti as well as smṛiti. The sages having seen the way of dharma through custom have accepted it as the root of highest tapas”.³

But it is to be noted that the Epic raises an objection here, which points to a different, perhaps an idealistic, interpretation that is in keeping with its philosophy. It definitely states “that custom alone cannot be dharma”⁴, for “nowhere is found that custom which does good to all”,⁵ or which is not disregarded⁶ somehow or somewhere.

(b) That law can be interpreted as *good conduct* is seen in Baudhāyana⁷ and in the dictum of Yājñavalkya,—

¹ See Supra, Basis of Law.

² Vana Parva, 149 ; Mokshadharma Parva, 259.

³ Manu Samhitā, I, 108, 110,—The Nyāyamañjari speaks even of *loka-upades'a* or tradition as a standard. (See Ethics of the Hindus, p. 300).

⁴ Mokshadharma Parva, 262.

⁵ Ibid, 260.

⁶ Ibid.

⁷ II, 17 ; 18.

"Dharma is sadāchāra" (good conduct)¹, although Bālabhāṭṭa is inclined to accept it as merely "conduct of good men", making the compound a tat-purusha one instead of karmadhāraya.² In such a case it is equal to the famous proverb—"Mahājanoyenagatahsapanthā"—that is the way by which good men have trod.³ The Mahābhārata has laid down that the objective of sadāchāra is good to the self⁴ and "āchāra is the container of dharma which is known through it".⁵ But it does not stop here; on the contrary it shows a vicious circle in the argument. It says—"in the sacred books dharma is defined as the conduct of good men and good men are said to be those who follow dharma. This indication marks out that dharma and good men are reciprocally dependent. Therefore who is good and what is dharma cannot be proved from this"⁶, yet "what wise men establish as dharma is merely followed even today".⁷ Further "what may suit a man in good conditions as dharma may not be so to another in difficulty".⁸

(c) Law as *justice* is on the whole an abstract conception and consequently involves the idea of duty. It is here, as among the Greeks, that Hindu ethical thought touches the root of the problem. Manu says in an unequivocal way that "where righteousness is violated by unrighteousness and truth by falsehood...there the whole (judicial) assembly is said to be destroyed", for "righteousness violated destroys (the world), but maintains it when it is itself preserved".⁹ Manu answers the old question,

¹ Yājñavalkya, I. 7. S. C. Vidyaratna's Ed. p. 14.

² Bālabhāṭṭa's Gloss. S. C. Vidyaratna's Ed. p. 14.

³ Āpaddharma Parva, 132.

⁴ Anuśāsana Parva, 104.

⁵ Mokshadharma Parva, 259.

⁶ Ibid, 260.

⁷ Ibid.

⁸ Ibid

⁹ Manu Samhitā, VII. 14, 15.

—what is justice?—by saying that “it consists in the application of righteousness (dharma, law) to all cases arising between the members of the state”.¹ Similarly the Epic adds “equal consideration of all beings...is the highest rule”. For “that man who considers all beings like himself is sought by the gods together with his supreme position beyond this world”.² “Equal protection of all, who are liked or disliked, constitutes dharma’s self”.³ Śukra has the pithy hint that this moral virtue “is useful in all cases and is a means to the preservation of human society”.⁴ It is thus intimately connected with the state itself.

As usual with the Mahābhārata theoretically justice is opposed by the extreme egoism of the type of Hebbesian and Nietzschean philosophy. This stratum of thought, running parallel to the excellent idealism of the Epic, mixes freely with the layer of clever sophistry like that obtainable in Greek philosophy. Says the Epic—

“Some powerful men have concluded that it is wrong to appropriate by force is but the rule of the weak. The rich too designate it the rule of poverty, which is due to ill luck.”⁵ “For the strong all acts are in accordance with dharma, all food is diet, all things are pure and personal.”⁶

In an ideal of this type there can be absolutely no room for justice and fair-play. It is based on its psychological back-ground “that appears to be good to which people are excessively attached.”⁷ Obviously this generalisation is in support of selfishness without bounds.

(d) The conception of *duty* (professional or otherwise)

¹ Ibid, VIII, 3 Cf. Pol. Theo. and Inst. of Hindus, p. 210.

² Mokshadharma Parva, 30.

³ Śānti Parva, 121.

⁵ Mokshadharma Parva, 259.

⁷ Mokshadharma Parva, 184.

⁴ Śukra Nīti, p. 2.

⁶ Āśramavāsika Parva, 30.

follows naturally from that of justice and hence it is similarly and equally related to society. It is justice applied particularly to personal cases that gives rise to duty. And this is "*sva-dharma*", or one's own duty. Consequently "dharma as duty is the obverse of dharma as law."¹ The Mahābhārata, Manu and Śukra have given full recognition to the principle of *sva-dharma* to be the irreducible minimum measure of personal responsibility.² The Gītā and Manu have emphasised *sva-dharma* in the following lines—

(1) "One's own duty, however deficient, is superior to another's duty perfectly done. The duty of others is dangerous (to be performed by another) ; even death is preferable in performing one's duty."³

(2) "It is duty to do one's work though low, another's duty should not be undertaken. He is doomed (fallen), who takes to another's duty, when able to discharge his own."⁴

(3) "God is never so pleased as when one's own duty is properly discharged."⁵

(4) "Another's dharma is to be renounced like the most beautiful wife of another person."⁶

The spirit of the verses quoted above is similar to Bradley's maxim, "My own station and its duties."⁷ This ideal of *sva-dharma* or *personal duty* is organically connected with the system of *Varṇāśrama* (the order of the castes) of the Hindu sociologists, also called *Varṇāśrama-dharma*, which is but "*sva-dharma writ large*."⁸ Plato

¹ Pol. Theo. & Inst. of Hindus, p. 211.

² Śānti Parva, 42, 65. Manu Samhitā, VII, 21-24, Śukra Nīti, I, 45-51.

³ Gītā, III.

⁴ Manu Samhitā, X, 97, 11

⁵ Hārta Samhitā, VII.

⁶ Atri Samhita, I, 18,

⁷ Pol. Theo. & Inst. of Hindus. p. 211. See Bradley's Ethical Studies. Essay V, p. 163 (2nd Ed., Clarendon Press Oxford, 1927).

⁸ Ibid.

has in his Republic¹ the principle of functional differentiation and consequent duties. Eucken has spoken of a *positivism* of this kind.² Tagore has pointed out that "to look upon one's own livelihood as dharma is only possible, where the good of society is recognised to be superior to the good of the individual",³ the principle being worked out from the individual to society. Sva-dharma being accepted as the standard, the state was empowered to enforce it according to Manu, the Mahābhārata and Śukra—

(1) "The king should not spare father, teacher, friend, mother, wife, son and priest, if any one of them does not keep to (his or her) own duty".⁴

(2) "It is the duty of the king to establish the people in their own and respective duties by putting on awe-inspiring mein."⁵

(3) "By the terrible use of the engine of sovereignty, he (the king) should maintain the subjects, each in his proper duty." And "so himself being dutiful the king should appoint the subjects to their own duties."⁶

(4) "The king, who punishes them that renounce their own dharma or follow another's, becomes glorified in the celestial region."⁷

But Epic sophistry raises the question that the conception of duty is very changeful. It asserts that "according

¹ Sec. 415, Jewett's Trans.

² Eucken, *The Individual and Society*, p. 33.—"Positivism assigns to each single unit within a specified order a certain definite place and gives him a definite task to perform, while the individual man is engaged in the full development of his own personal powers, he is at the same time furthering the interests of the transcendent whole."

³ "The Sudra Habit" in *Mod. Rev.*, March 1927, p. 273.

⁴ *Manu Samhita*, VIII, 335.

⁵ *Āpadharma Parva*, 143.

⁶ *Śukra Niti*, pp. 11, 14.

⁷ *Atri Samhitā*, I, 17.

to time, place, circumstances and persons, dharma (duty) becomes adharmā (undutifulness) and adharmā becomes dharma.¹ Hence dharma has to be rational, since the same act may at times be righteous and unrighteous.² It is true, therefore, that the course of the world cannot go on by sticking to one aspect of dharma ;³ its essence must be determined by reason,⁴ in as much as "the dharma of one in safety cannot be the dharma of one in danger."⁵ "It is never constant, every new age creating its new dharma."⁶

The problem of the measure of duty—how much of it should be done, under what circumstances, and to whom—is met with here and needs some attention. Duty will be a very vague and indefinite term after the criticisms advanced by the Epic. No standard can be fixed for a thing which is itself indeterminate. The reply is suggested by Yājñavalkya, though in a different context, and may be worked out through its implication. And then it is seen to be parallel to some extent to the interpretation of the ethical golden mean of Aristotle, that is the exact measure of duty necessary. On the basis of Yājñavalkya,⁷ Vijñāneśvara says in describing the "efficient cause of dharma", that of proper time, place, means, faith and person, "all or some of them must be taken according to occasion."⁸ The point is that these go to indicate the required measure.

(e) *Social good*—abstract though the term is in the highest degree—is in its general and comprehensive interpretation, what the Epic evidently makes out as dharma or the essence of law, notwithstanding all its destructive sophistry in regard to other definitions. Yet it is not

¹ Mokshadharmā Parva, 310 ; Rājadharmānuśāsana Parva, 88.

² Āpadharmā Parva, 142.

³ Ibid.

⁴ Ibid. 141

⁵ Ibid, 130.

⁶ Mokshadharmā Parva, 232.

⁷ I. 6.

⁸ The Mitāksharā, p. 13. S. C. Vidyaratna's Ed.

inclined to narrow it down only to its social application, as will be found below. Indeed the old criticism of the Buddhist divine Ārya Deva had already disclosed the "relativism" in the conception of mere *lokasthiti* or social stability as dharma.¹ Because—

"What is social stability is considered to be dharmawhich may change according to differences of country and time."²

The main drift of the Epic argument is that dharma is really "the good of all" and "is established for the course of the world."³ Again—

"It is very difficult to find out real dharma. (But it is certain) that "It has been created for the sake of the prosperity, salvation and removal of the troubles of men. Therefore, that is true dharma through which

¹ See Ethics of the Hindus, p. 301.

² Chatuḥśatika, cited in Ethics of the Hindus, p. 302.—In later times this relativism is clearly avoided, as in the Mahānirvāṇa Tantra, by changing the idea of *lokasthiti*, (social stability), into *lokaśreya* (social good), and certainly it is a decided advance on ethical lines, for which the Mahābhārata may be said to be mainly responsible. Says the Tantra—

"The means, by which the highest good of the world (society) is attained, is duty for the knowers of God (Brahman) and eternal dharma, O Queen of the King of the gods." (Mahānirvāṇa Tantra, III, 104. Mr. Dutt's translation is rather loose. Dutt's Ed., p. 40. Also see the Life of Ram Mohun Roy by N. Chatterjee, p. 243).

But the Nyāyamañjari mentions both *lokasthiti* and *lokaśiddhi* (social end) as the standards of dharma. (See Ethics of the Hindus, p. 303.) The ethical implications of such sharp definitions are plain enough, since behind this social thought lies the solid bed-rock of morality, without which society itself would come to a stand-still. "An attempt is thus made not only to get beyond the limitations of communal and regional morality, but also to provide for moral progress besides moral order." The above remark by Dr. Maitra (Ethics of the Hindus, p. 303) is true socially as well, even when purely ethical considerations are left out. Apart from definitions which are very useful in themselves, it is the Mahābhārata, that seems to be in this respect the source of the content of all social speculation of idealistic character.

³ Mokshadharma Parva, 259, 262.

people become progressive, free from difficulties and possessed of ultimate salvation."¹

It agrees fully with the Vaiśeṣhika definition that dharma is "abhyūdaya-nihśreyas-siddhih,"—the realisation of both worldly and other-worldly goods."² Somdeva Surī has also defined dharma "as that which promotes the greatest good of society,"³ with an unrestricted application. Its social expressions are sympathy, doing good and non-injury to all."⁴ Professor Radhakrishnan says, "Dharma or righteousness is the stable condition which gives man perfect satisfaction. It helps him to gain salvation as well as happiness..... Dharma is relative end dependent on the condition of society. It has always a social implication. It is the bond which keeps society together. Dharma develops the solidarity of society. It aims at the welfare of all creation."⁵

Further idealisation led the Epic to conclude that "dharma is the highest and the only good."⁶ Its character comprises all its many aspects, since after all "dharma is one."⁷ It is also "constant"⁸. Therefore all dharmas lead to "one state,"⁹ and any one dharma may lead to the eternal dharma.¹⁰ This is like the Stoic doctrine of virtues, one virtue leading to others, and all are known when one is known. The unity of dharma, thus enunciated, connected ethics with politics and sociology in the Hindu philosophic thought of the time, and allowed

¹ Rājadharmānuśāsana Parva, 109.

² Vaiśeṣhika Śūtra, 1, 1, 2 ; Hinduism, p. 73.

³ Nītivākyaṃrītaṃ, I. p. 37. Also see Pub. Ad. in Anc. Ind. p. 275.

⁴ Mokshadharma Parva, 259 ; Anuśāsana Parva, 164.

⁵ Ind. Phil. I. pp. 505-6.

⁶ Prajāgara Parva, 32 ; Anuśāsana Parva, 150, 164.

⁷ Anuśāsana Parva, 162.

⁸ Mokshadharma Parva, p. 293.

⁹ Ibid, 164.

¹⁰ Vana Parva, 149.

religion to operate in spheres, where it is said to be out of place, unfortunately according to the tendencies of the modern day, influenced probably by the new-born scientific spirit. In showing the nature of dharma the Epic adds that "truth is naturally unqualified," that is it is abstract ; "it becomes dharma when it is qualified" in application.¹ "Law (proper, or political law) is that which spreads dharma."² For, after all "the whole world is established on dharma."³ In fact "the substance of dharma is sharper than the edge of the razor and heavier than the mountains—there is no doubt about it."⁴

Kinds, Proofs and Ways

The necessary ethical implications of law bring in a number of views such as kinds, proofs and ways of dharma. Apparently these have nothing to do with law proper, or political law, but their relation to social justice and duty is evident and clear. They come along with the instruments of interpretation used in dealing with legal concepts and help the understanding of the moral side and import of law.

Dharma is said to be of three kinds—vedic (according to the Vedas), smārtha (according to the law-books) and customary,⁵—being roughly the forms in which it was generally accepted by the legislators. Its proofs are—the Vedas, observation, and practice.⁶ It is difficult to say what is exactly meant here. The ways to dharma are

¹ Anugītā, p. 35.

² Rājadharmānuśāsana Parva, p. 121, Nārada places dharma below law, (I. 40.)—"Vyavahārohi valavān dharmastenāvahiyate."

³ Āpaddharma Parva 167.

⁴ Mokshadharmā Parva, 260.

⁵ Baudhāyana I. 1 ; Vāśiṣṭha I, 4-5 ; Anuśāsana Parva, 141.

⁶ Ibid 162 ; Manu Saṁhitā, II. 12.

eight according to the Epic, namely yajña, study, charity, tapas, truth, forgiveness, self-control, uncovetousness.¹ This compares favourably with the eightfold path of Buddhism. It is called the Aryan eightfold path discovered by the Tathagata and is the first sermon on setting in motion the wheel of law—right belief, right speech, right aspiration, right conduct, right mode of livelihood, right effort, right mindedness and right rapture.² It is to be noted that there is a gulf of difference between the orthodox ethics of the Epic and the heterodox psychology of the Buddha. He “did not declare open war against the ceremonialism of the time, but tried to infuse moral significance into its forms and thus undermine it.”³ No room is allowed by him to yajña, or tapas, so important in the Hindu codes of law. Manu has ten signs of dharma—contentment, forgiveness, restraint, uncovetousness, purity, self-control, intelligence, self-knowledge, truth and calmness.⁴ Manu seems to have added two items more than the Epic. The *Mitāksharā* gives six topics of dharma,—the dharma of varṇa (caste), of āśrama (stages of life) of varṇa-āśrama (orders of castes), guṇa-dharma (of quality), nimitta-dharma (of cause) and sādharma-dharma (general).⁵

The following parabolic teaching is not without its lesson in illustrating the many connections and ramifications of dharma. Such stories in the Epic are intended to carry home the message, which in philosophic language would perhaps be too dry and uninteresting. The importance of dharma in everyday practical life cannot be better stressed for the purpose of instilling righteousness and inculcating one of the deepest and most useful truths

¹ *Āraṇyaka Parva* 2.

² *Ind. Phil.* p. 420.

³ *Ibid.*, p. 421.

⁴ *Manu Saṁhitā*, VI. 92.

⁵ *Mitāksharā*, pp. 3, 4. S. C. Vidyaratna's Ed.

of moral and social philosophy. Dharma, character, truth, good work, strength, and prosperity are figured here, each speaking out its own mind—

(a) Dharma—"I am dharma—I live where character is found."

(b) Truth—"I am truth—I have to accompany dharma at all times."

(c) Good work—"I am good work—I stay wherever truth stays."

(d) Strength—"I am strength—I too have to live with good work."

(e) Prosperity—"I am prosperity—I have to follow strength."¹

Dharma and Institutions

Dharma, as "the operative criticism of all institutions," runs all through in an under-current beneath Hindu political and social philosophy. It was the great theme in the back-ground of all their social and political thought, never lost to view or allowed to be compromised amidst the difficulties of practical problems and the demands of changing times. From the Vedas down to the Śukra-Nīti, it appears again and again, reminding men of action and men of thought, of the truth that underlies and upholds the complex, expansive and diversified structure of society. They knew "all is gone when dharma is gone" and in the absence of standards and sanctions it would be simply pralaya (chaos) all around.² References backwards and forwards to dharma, rationally thought out and at times partially realised, meant for them that process of evaluation, which

¹ Rājadharmānuśāsana Parva, 124.

² See Nīti Sāra, II. 34.

like the oscillations of the compass, showed the right direction and guided society towards the highest ideals. When Yudhishthira raised the difficult and searching question—"How can the service of dharma and the protection of the state be possible for a man", (a king), at one and the same time?—As "the two are (evidently) contradictory"¹—he was in fact judging the state on the criterion of righteousness by bringing the two concepts together. If the great Epic has "an inner chronology" of its own, to use Jhering's well-known phrase, this point ushers in the whole social, political and moral philosophy of the Śānti Parva and the following didactic portions. A critical estimate of the state in relation to and in the light of dharma was wanted by the monarch, who was reputed for unfailing truthfulness and never did wrong.

The application of the standard of dharma (righteousness) to individuals, society and the state was a natural procedure. Their evaluation exhibited the object of their existence and their intrinsic worth increased or decreased with the assimilation and embodiment of dharma in them. For philosophical purposes a judgment of value was passed on them from the supreme standard of dharma. This ruling conception supplied permanence and significance to all institutions and orientated them towards perfection. "All that raises human nature to a higher pitch, all that enables it to reach out to a fuller life, all that, which produces harmony of work between the dualism of human nature yoking the horse of egoism to the car of altruism", is dharma.² "Dharma can establish heaven" on earth.³ The question is how this can be done and hence the whole scale, from the individual to the

¹ Rājadharmānuśāsana Parva, 37.

² Hinduism, p. 72.

³ Ādi Parva, 41.

state, needs to be attuned to dharma. And the eternal and other-worldly aim and object of every individual man must, in a directer or an indirecter fashion, determine the aim and object of every group into which he enters.¹

To start with the individual, for he is the atomic unit of measurement, it is evident that social good cannot be possible without the proper discharge of personal duties. On the basis of the foregoing analysis it is proved that this principle is *Sva-dharma*—one's own duty—and is the minimum demand by society. The state enforced it in favour of society,² since "man secures happiness in both the worlds (here and hereafter) by doing his own duty."³ Man does take up good, middling and bad works through the force of time."⁴ But "he who gives up his own duty and takes up another's turns his whole work into *adharma*"⁵ (undutifulness); yet "through the power of political science (*Kshātra-dharma*) all can be well-ordered."⁶ *Sva-dharma* must also be inter-connected with other duties—everybody's duty being related to other peoples' duties within the social whole. "Dharma is nursed by the *Brāhmaṇa*'s work" and "the world gains dharma through the help of the *Śūdra*, *Vaiśya* and *Kshatriya*. If these *Vaṇas* (castes) do not adopt peace (orderliness) they can never have the grace of God."⁷

Speaking of people in general, it was pronounced that "men advance or deteriorate—this is the law of the world."⁸ The process of decay has to be arrested in order to ensure progress and such advancement depends on righteousness, for "*dharma* is victory"⁹ in its widest

¹ See Pol. Theo. of Mid. Age, p. 3

² See above, p. 247.

³ *Rājadharmānuśāsana Parva*, 62.

⁴ *Ibid.*

⁵ *Ibid*, 65. ⁶ *Ibid*, 65.

⁷ *Ibid*, 63, 65.

⁸ *Mokshadharma Parva*, 224.

⁹ *Anuśāsana Parva*, 164 ; *Bhīshma Parva*, 21. cf. *Artha Śāstra*.

denotation. "Through dharma's power people become pure-hearted and free from sin."¹ "They can according to their actions reach light and truth, that is heaven, or darkness and untruth, that is hell."² "Through good and bad works are seen evolution and devolution (rise and fall)"³ It is only their own choice, for every one has great possibilities. "Within the human body there are both annihilation and immortality,"⁴ as well as "virtue and sin, though they are opposed to each other."⁵ This finite-infinite nature of man proves that he is designed for the very highest stature and end, and there is the constant assurance that "no dharma goes in vain."⁶ On the contrary "from dharma is established heaven" on earth.⁷ For such a great assumption the problem naturally turned to be the reconciliation of dharma with the social conditions and its embodiment in the imperfect structure of social life. It practically included the whole of society together with all other moral implications.

The social orders are meant to help this process of spiritual culture going under the denomination and domination of dharma and they are themselves said to be permeated with this noble purpose. "God is at the steps of the (four) āśramas" (stages of life).⁸ Verily man can see Him as he enters in. 'By climbing its stairs man can attain the region of the gods; whether a student, a householder, a dweller of the forest, an ascetic, one can reach the very highest stage by living according to śāstras,"⁹ (i.e. dharma). Indeed "all the four āśramas are established for the preservation of dharma"¹⁰ and "the

¹ Ibid.² Mokshadharma Parva, 121.³ Udyoga Parva, 45.⁴ Mokshadharma Parva, 277.⁵ Ibid, 201.⁶ Ibid, 353.⁷ Ādi Parva, 41.⁸ Mokshadharma Parva, 242.⁹ Ibid.¹⁰ Ibid, 191.

fruit of life in the āśramas is salvation itself.”¹ These stages of life are instrumental to the highest human growth step after step towards the full realisation of dharma, which “is the chief means to salvation.”² The state, as the centre of society, sees that everything is all right with these social orders.

The greatest of all institutions, the state, is not an exception to the criticism and rule of dharma. Anarchy was imagined to be the condition, when none cared for dharma and hence “dharma disappeared completely.”³ In case of good and effective government “dharma spreads everywhere.”⁴ This intimate connection between good government and dharma runs throughout Hindu political thought. It was categorically expressed by saying that “the king and dharma are reciprocally protective”⁵ and “it is dharma.....which preserves the kingdom.”⁶ It is emphasised in secular writing in the passages below—

“The king is created for protecting dharma..... (which) takes the shelter of kings. The king is made like the very self of dharma. To advance dharma to the best of ability is the duty of the king. When dharma is increased the people prosper and when dharma disappears the people also go down. It is never good to let dharma down. Evils are removed through the power of dharma ;.....(for) dharma was created for the birth and growth of beings. Therefore for the good of the people the king ought to protect dharma. He is truly king in whom dharma is ever present.”⁷ In other words “the king is the cause of the prosperity and progress of this world.”⁸

¹ Ibid, 288.

² Āpaddharma Parva, 147.

³ Rājadharmānuśāsana Parva, 59.

⁴ Ibid, 69.

⁵ Vana Parva, 90.

⁶ Rājadharmānuśāsana Parva, 92.

⁷ Rājadharmānuśāsana Parva, 90.

⁸ Nīti Sāra, p. 3.

Politics and Time

This is nothing but a judgment on the state represented by the king. The state stood charged with the mission to realise the idea of Law,¹ otherwise there would be a pralaya (deluge) when dharma (law) is violated.² But it does not end here, stretching, as it does, beyond the immediate concerns of government and giving colour and character to time itself. Even the ages are spoken of as politically conditioned from the point of view of general culture. Politics is the barometer of national culture indicating its true level and pressure. How true it is even to-day, in the East as well as in the West, of democracy and imperialism, of peace and war. The ancients perhaps knew this better than the way in which it is understood in the modern time. The Epic adds—

“If the king is misled, the sacred fire, the Vedas, the sacrificial rites, and the four social orders and the four varṇas would disappear and when the king goes wrong, elephants, horses, camels, cows, mules and asses all become weak. The king being unrighteous, caste-mixture, deformed, dumb and imbecile men come into being”.....“and so do untimely winter and untimely summer, excessive rain, want of rain and many other dangers.”³

“In the absence of the king all righteousness is lost, and at the loss of righteousness, this world also meets with destruction. The king holds the key to the worldly and the spiritual advancement of his own self as also of his subjects.”⁴

Hence it is that the king was called “the maker of the age,” or “the cause of the time”⁵, illustrating the close

¹ Vide Pol. Theo. of Mid. Age, p. 74. ² Niti-Sāra, p. 23.

³ Rājadharmānuśāsana Pāṭya, 90, 91. ⁴ Niti Sāra, p. 23.

⁵ Nītivākyaṃṛitaṃ, 17. p, 181.

relation between politics and culture. This idea occurs in the Epic and the Manu Samhitā as well as in the Śukra-Nīti. The Mahābhārata designates the king "the very likeness of the Yuga," and Manu the *Yuga itself*. The prosperity and culture of the particular time is determined by the king's character—

"Through the behaviour of kings, the four *yugas*—Satya, Tretā, Dvāpara and Kali—take their birth. The king is the very likeness of the yuga."¹

"The Kṛita, Tretā, Dvāpara and Kali ages are merely the efforts of the king, who is therefore called *yuga* or age".²

"The prince is the cause of time and of good and evil practices. It is the king who is the cause of the origin of the good and evil of the world". "The king is the *maker of the age* as the promulgator of duties and sins".³

Yuga Dharma⁴ and its Content

The above is a general statement of the king's position, so far as the cyclic periods are concerned. His agency sets them in motion or gives birth to them. It is a

¹ Rājadharmānuśāsana Parva, 91, 41.

² Manu Samhitā, IX, 301.

³ Śukra Nīti, pp. 11, 132, 259.

⁴ Mr. Govinda Das has defined these sections of time and shown all their special characteristics. "Yugas and Kalpas are periods of time into which the past and future history of the cosmos is divided. A Yuga may be generally defined as a period of time in which some one definite function or form of individual or social life is worked out.....These Yugas may also be understood to be cycles in which human and cosmic evolutions run, and apply as well to the whole world as to countries, institutions, individuals and so forth" The presiding deities are Brahmā, Ravi, and Vishṇu respectively of the first three ages, the last having none. (Hinduism and India, by Govinda Das, pp. 57, 60). This theory of the four ages of the world is found among the ancient Egyptians; Jews,

figurative way of practically measuring the content,—the goodness or the badness,—of ages, which are politically caused to a great extent. The political conditions invariably disclose how far righteousness has been operating in society.

Again the four cycles or ages mentioned above have their own standards, and cyclic righteousness varies accordingly. It is clear that the quality and the quantity of righteousness determined the character of the ages. In the opinion of the Epic endorsed by Manu—

“The first yuga is Satya ; in this yuga dharmahas four legs” (or parts, i. e., stands full.) “In the second or the Tretā yuga dharma loses one leg”, (i. e., is only three-fourths.) “In the Dvāpara yuga dharma loses two legs” (or is only half.) “Then in the Kali yuga dharma has only one leg”, (i. e., is only one-fourth.)¹

The political exposition of cyclic dharma (righteousness) gives the following result. It is nothing but a typical

Persians, Greeks and Romans. “Lucretius, the bold propounder of this hypothesis, was born in 99 B. C., which is several centuries later than the period when the Hindus had developed the doctrine. (Hindu Social Evolution by Dr. Balakrishna, Vedic Magazine, Sept., 1926, p. 382). According to Hesiod, there were the Golden, the Silver, the Bronze, and the Iron races of men corresponding to the four ages. They are parallel and similar to Hindu ideas on the subject. (A. Toynbee, Greek Historical Thought, pp. 141 ff). The general defect of the doctrine is that “no separate cycles or parabolas have been recognised for the various races. This is manifestly wrong. Even now we have various peoples living in all the stages of evolution. There is no synchronism in progress and its degrees in the case of all races. It is really strange that the Hindu philosopher recognising the co-existence of Barbarians, Mlechhas etc., with the civilised Aryans, could postulate all-embracing and uniform stages of civilisation throughout the world. The whole of mankind could not be in the Iron or in the Golden age”. (Vedic Magazine, Sept. 1926, p. 372). The explanation of this anomaly is to be found in the last section of this chapter.

¹ Vana Parva, 158 ; Manu, I, 81-82.

application to politics of the principles noted already, all the points of comparison being parallel—

“You need not be doubtful as to whether the king is the cause of time or time the cause of the king. The king is certainly the cause of time. For when he governs well and fully according to *daṇḍanīti* (political science), it is Satya Yuga. Not even a bit of unrighteousness can come in at this time and dharma is full and complete everywhere. When the king governs with three portions of the science of politics unrighteousness sets one foot in. This is the Tretā yuga. When quite half of political ethics is left out and the king governs only by the other half, it is called the Dvāpara yuga. Unrighteousness sets two feet in (at this time). Political ethics being given up altogether, the king may trouble the subjects in many ways, then it is the Kali yuga. In this yuga the practice of dharma disappears altogether”.¹

The cyclic order is an old conception of the Hindus and time is divided into four ages from the creation of the world to the final destruction of it. Dharma is its substratum, since the loss of dharma means the end of time in its cosmic manifestation. It is a different question with eternal time, which is sometimes identified with God.² Its relation to politics and society is a logical nexus, in as

¹ Rājadharmānuśāsana Parva, p. 70—The practice of dharma has also been shown according to different ages. “Owing to the deterioration of the ages differences in (the practice of) dharma have been indicated in the four ages. Tapas in Satya, knowledge in Tretā, sacrifice in Dvāpara, and charity in Kali are considered to be the highest dharma”, i. e., the greatest and the most sacred law. (Mokshadharma Parva, 231).

² “In the Atharva Veda and in the Mahābhārata.....time appears in the light of the creator” (Buddhist Philosophy, p. 163). “Time in the shape of the yugas constantly holds the universe within itself. This time is the very Brahmā, God to those who have known God” (Mokshadharma Parva, 221, also Bhāgavata Purāṇa, III, 18, p. 155).

much as the expression of dharma is in social and political forms, and within civil society itself. It is also applied to the individual,¹ and equally illustrates its connection with personal conduct and character. Its natural progress is from simple units to more and more complex manifestations.

From the stand-point of the king, it is stated that different rewards await him in after-life in proportion to the success and value of his government. Full heavenly bliss is for the king who gives rise to the Satya yuga,² and half, three quarters and dire hell for bringing about the other three yugas respectively. This is because the king is considered to be in short "the root of dharma (righteousness)".³ Further God Himself is said to have different colours, (signifying qualities), in different yugas in accordance with the degrees of righteousness contained in them. This is a disguised suggestion of the theory of values in relation to the actions of man. Says the Epic—

"First is the Satya yuga.....Nārāyaṇa (God) is white (in it). In the Tretā yuga Nārāyaṇa becomes red...in Dvāpara yuga Nārāyaṇa is yellow and in the darkness-filled Kali yuga Nārāyaṇa becomes black". Also "I (Nārāyaṇa) become white in Satya yuga, yellow in Tretā, red in Dvāpara and black in Kali".⁴

These conceptions represent a "colour symbolism", which, according to Dr. Kramrisch, "has partly descriptive and partly suggestive significance".⁵ The white colour is of *sattvika* type, the yellow and red of *rajasika*, and the *tamasika* type is of black colour".⁶ The theory of the

¹ See the next section.

² Udyoga Parva, 130 ; Rājadharmānuśāsana Parva, 69.

³ Āraṇyaka Parva. 4 ; Rājadharmānuśāsana Parva, 59.

⁴ Vana Parva, 148, 188.

⁵ Viṣṇu-Dharmottaram, p. 16.

⁶ Śukra-Nīti, p. 176 ; Silparatna, 145-7.

three *gunas* (or values) underlying the universe is here connected with the idea of the proportionate representation of dharma in the different ages, indicating their nature and content.

Dharma as culture thus stands closely and necessarily related to politics, "which keeps the whole world in order just as reins do the horses".¹ The doctrine of yuga-dharma in its entirety imparts to the state the character of an institution for the advancement of culture. Herein the Hindu theory meets Aristotle's conception of the state, as the means to the furtherance of the highest good of man.² Its relation to *daṇḍa* is for the purpose of coercion from this angle of vision; and thus both the doctrines are correlated. *Daṇḍa* and dharma are the two poles of the state, "the two faces of the political Janus, one looking to the failures, the other to the triumphs".³ If *daṇḍa* is the authority of the state, dharma is its ideal. *Daṇḍa* enforces duties, while dharma as duty is but the obverse of dharma as law. Therefore "the doctrine of duty is identical with that of law turned inside out".⁴ Even property is designed for dharma,⁵ and its relation to the state is not merely that of adjustment, for the state itself expresses the spirit of dharma as it exists at the time, inlaid with a diffusive purpose. In reality the state is conceived of as "a vale of soul-making" in the language of Keats, a training-ground for men, which in Hindu phraseology would be equal to a dharma-producing machinery and an "institution securing even the ultimate salvation of all".⁶

¹ Rājadharmānuśāsana Parva, 65.

² Pol. Theo. & Inst. of Hindus, p. 211-212.

³ Ibid, 210.

⁴ Ibid, 211.

⁵ See Sec. on the Rise of Property.

⁶ See Supra, Origin of the State, p. 13.

Above politics and human laws, the Hindu sages saw another plane of cosmic perfectability, authoritative and watchful, overseeing and upholding the world where man plays his many parts. Dharma expressing the total value of these parts, changes from time to time in conformity with their nature, and is the time-spirit in all such vicissitudes. But when utter confusion sets in undoing the very destiny of man, divine power moves to mend it or to end it. This is the conception of the *Gītā* in relation to cyclic righteousness, which may fitly be called the world-rhythm. God himself re-establishes righteousness after it has been overwhelmed and overthrown by man. It is said that incarnations of the deity are necessitated by such climaxes of human degradation and sin. The incarnate god of the *Gītā* says—

“Whenever righteousness is overthrown and unrighteousness prevails, then I create myself. To save the righteous and to destroy the wicked and (thus) to re-establish righteousness, I am born in every age. I am above birth and death and lord over all, yet I incarnate myself with the help of my own nature and through my own *māyā*.”¹

If everything in the world contributes to the rhythm of the universe, on the postulates of Hindu thought, “the diapason closing full in man,”² the king and the commoner are both responsible and no action can go in vain, nor pass unaccounted. The inter-relations of the whole system are finely adjusted; these may consequently be disturbed by the agency of man. The totality of values realised in this system is *ultimate dharma*, preserved in the bosom of God. None can escape having troubled the equilibrium, which protects him as well

¹ *Gītā* V. (A free translation is given here).

² Dryden, *Alexander's Feast*.

as others, whether he is a ruler or a slave, for it is after all a concern of the creator, whose self-expression is at the root of creation. The spirit of God moves in the system of the animate and the inanimate nature, of which the king and the individual man are the political and moral poles for building up the society of conscious beings stamped with the nature of the divine.

The Individual and the Four Ages

The doctrine of the four ages is applied to the individual illustrating how the elements of these ages are constantly evolved in the lives of men and are represented qualitatively in all human actions. This is possible on the basis of an important text in the Aitareya Brāhmaṇa which runs as—

“Kaliḥ śayāno bhavati sañjihānastu Dvāpara

Uttishṭhan stretā bhavati kṛtām sampādyate charaṇ.”¹

Proportionate presence of dharma being the very core of the different ages, the evolution of dharma itself is implied in these lines, in the personal lives of all, as ultimately affecting the whole world process. Swami Vivekananda in his endeavour to infuse spirit into the nation drew attention to this verse.² His object was to rouse the people to spiritual activity. His own comment is given below—

“For the foolish the Kali era is constant; his era comes from out-side. He who is on the path to freedom has nothing to do with Dvāpara. Tretā and Kali, for he begins to build for himself his own era, the Satya. He, who lies down lazily, has the Kali age attached to him. He who wakes and sits up has

¹ Adhyāya III.

² From Vivekananda's Works, quoted by the Basumati of March 1926.

Dvāpara. He who has stood erect has Tretā. And he who starts for the journey of emancipation creates the Satya age as he goes on."¹ It is to be noticed that the last five lines of Vivekananda's comment are the literal translation of the Sanskrit original under notice. Keith's translation in the Harvard Oriental Series also yields the same meaning though verbally a little different,² but without the positive spiritual turn given to it by the word "emancipation." Plainly the implication is that it is man's creative activity, in private life as much as in public life, (which are again intimately connected together at last), that determines the character of his time. This is as true of politics as of society in general, where individuals have to act and in most cases take the lead. The Aitareya Brāhmaṇa has further these explanatory passages for the purpose of elucidating its own meaning—

"The future of him who sitteth also sitteth,
But that of him, who standeth, standeth erect,
That of him, who reclineth, lieth down,
The future of him, that moveth, shall move indeed."³

Reading the two extracts together and joining up their imports, there remains no doubt as to the importance of ethical activity on the part of the individual in respect of the civilisation of the time. It is like the power of points in an electrical medium and the individuals, as such spiritual points in social life, can exercise simultaneously great and potent influence for their own good and that of society in general. The field is unlimited before everybody and the journey is endless as the sages have declared, for progress is an infinite

¹ Ibid.

² Harvard Oriental Series, Vol. 25, p. 302.

³ Ibid.

advance towards the infinitely receding goal of infinite perfection.¹

The position of the king, as the individual head of the state and the maker of his age, has already been dealt with in the preceding pages,² and that of the private individual is seen to be no less important. Their reciprocity is set forth clearly in the statement that "the world suffers for the fault of the king as much as the king suffers for the fault of the world."³ If society and Dharma (i.e., culture) are to be improved, the individual must be in every case the centre of moral idealism and also dynamical, whether he is the king or the subject. The Aitareya Brāhmaṇa points out this dynamical personality for the necessary regenerating activities, for guarding against the decay of civilization.⁴

What Schweitzer means by "the ethical element"⁵ is the dharma of the Hindu sacred books, which again is the very kernal of the golden age according to the ancients of both the East and the West. This determining factor has been thrown upon personal initiative and responsibility on the basis of sound psychological analysis and the tested experience of the race. It is very strikingly illustrated in the case of all great men, who left their marks on the world. Emerson truly held, God lets out

¹ Cf. *The New State*, p. 51. Cf. Rabindranath Tagore's saying—"Perfection is unattainable, but the spirit of perfection is our salvation." (Lecture at Santiniketan, Dec. 1930).

² See above, p. 257.

³ *Udyoga Parva*, 130; Cf. *Ramāyana*, *Ajodhyakanda*, 105,8. See Ch. II, the Idea of Identity.

⁴ Cf. Schweitzer, *Decay and Restoration of Civilization*, p. 73.—"The individual personality must be looked to as the agent in a new movement..... Civilization can only revive when there shall come into being in individuals a new tone of mind (independent of the one prevalent among the crowd and even in opposition to it)—a tone of mind which will gradually win influence over the collective one and in the end determine its character. It is only an ethical element.....and the ethical comes into existence only in individuals."

⁵ *Ibid.*

a great man when He desires to move the world.¹ Here too the personal element is emphasised in order to characterise the age and the society of that age. The ultimate problem of the progress of civilisation indicated by the proportionate presence of righteousness, or ethical quality evolved in individuals and in the nature of leadership, turns upon the fact of the contribution made by the component parts. This in the end resolves itself into the character of persons going to form the whole.

The view taken of the problem may look unnecessarily religious, bringing in something, which is not recognised strictly by political and social science. But it should be remembered in terms of modern Western thought that "the stability of every society depends upon a harmonious inter-relationship of the profoundest ideas of all its members, and upon this depends the coherence of life and thought. Such coherence is not due to arbitrary adjustment or artificial compromise, but it can be consciously striven for, by seeking a stand-point or attitude that shall answer religious and other evidence. This would effect a harmony without the exclusion of those features that at present preclude harmony. It would involve a re-expression of the most fundamental ideas in accordance with the best knowledge and this would require a development of thought beyond the present state."² The transcendence envisaged is none other than religion itself or at least the totality of its effects on human nature.

The conception of Dharma, whether regarded subjectively or objectively, is a fundamental element in the life of the individual and of the community. It is true that "from the subjective stand-point it is considered

¹ Representative Men, p. 32.

² Stanley Cook, The Foundation of Religion, p. 18.

not merely as a function of the mind (Sāṃkhya school), but also as a determination of the substantive self (Nyāya school), resulting from the purity of intention ; from the objective stand-point it is considered not merely as external śāstrika prescription (Bhaṭṭa school), but also as *apurva* (something new) which is the essence of duty as an accomplished verity of the moral order (Prābhākara school)."¹ Nothing can take away its philosophical value in all Hindu systems of speculation. On the other hand its progressive realisation is averred to be the object of the normal will conceived as a rational good for all. "And goodness prevails only through the fruition of impulse to harmony accomplished in the time-process.....! This effort is the creator of gods and men, of beautiful fictions and what is noble in fact, of law and morals, of science and art, perhaps what is beautiful in nature; certainly of the significance of that beauty to us. Its operation is intelligent and purposive and all-embracing."² The ideal in order to be effective must be progressive, dynamic and creative, its reality being step by step, value after value, raised to the very ultimate.

The impulse of dharma is essentially cultural, as it is understood in Hindu philosophy, aiming to unify the individual and society, man and the world. Legal philosophy attains its high consecration in the realisation of this unity on the basis of culture, for it is admitted everywhere that the requirements of law are the requirements of culture.³ The law must be so constituted that it may in the greatest degree serve cultural ends and

¹ Maitra, *Ethics of the Hindus*, p. 237.

² Hobhouse, *Rational Good*, p. 159.—This definition of the good agrees generally with that of dharma in all aspects, social, moral and metaphysical (See *Supra* Sec. on the Basis of Law).

³ *Philosophy of Law*, p. 52.

achieve cultural objects. It must aid in developing the seeds of culture and in repressing the elements that are contrary to it. This is the inner necessity of law in all ages and climes and without it law will be empty of content. An illustrative passage is furnished from an Western authority, which indicates kindred elements of legal thought. Kohler says "Law aims at so ordering matters that periods opposed to culture are shortened as much as possible, that antagonistic tendencies are weakened and that thus the normal condition of progress is more quickly established."¹ Dharma is meant to do all these and to represent the totality of cultural values in Hindu thought, as well as the very spirit of the "time. Its implications are necessarily metaphysical and "to expound the deeper significance of this creation of culture is the task of metaphysical science."² Tagore having designated dharma "a creative ideal", has concluded that "civilization has to express man's *dharma* and not merely his cleverness, power and possession."³

¹ Ibid.

² Ibid.

³ The Religion of Man, pp. 148, 149.

APPENDIX

NOTE 1

"Matsya-Nyāya" (Logic of the Fish)

This pregnant phrase, short and pithy as it is, carries one of the most important political concepts of the Hindus and forms the back-ground and the presupposition of a number of theories. It assumes an analysis of human character in general, namely that it is obviously selfish, but admits the possibility of improvement. That is to say it ought to be altruistic and it may be so. Taking for granted what its import is, the phrase rises to the regulative idea of social solidarity through social and spiritual training. Its presence is constant in the social process in a suppressed form, a reversion to it being always possible under conditions favourable to it, but it exists at the same time together with its opposite, which is the altruistic tendency. It is thus the egoistic side of human nature generalised as a social fact. A strain of pessimism is marked out by it, in Hindu social and political thought, like that of Hobbes and Spinoza. Its logical contrary is Natural Law in the Epic sense, or in that of Locke, which is the cementing factor to hold society together, while piscine logic, universal war and natural right represent disruptive forces.

The source of this phrase is not exactly known as yet. But an effort has been made here to trace it out backwards as far as possible. In its earliest appearance it has not the shape, nor the significance, given to it by politics. Only a vague social importance and meaning is found to be attached to it. The following quotations will illustrate the point.

Vedic Literature

1. The Ṛig Veda supplies the most suggestive germ—"Eager for spoil.....fain to win wealth *in the manner of fishes* urged by hunger."¹ Although the technical use of the phrase is not apparent in the Vedic time, it is clear that the conception was being formed from the close observation of piscine nature.

2. The Śatapatha Brāhmaṇa does not use the famous phrase itself, but gives the rudiments of the same idea—"whenever there is draught, then *the stronger seize the weaker, for the waters are the law*"² (āpodharmah—condition of existence?). Like its Vedic use, it is not yet specific and did not pass into a condensed form. Its abstract shape is in the making here.

Epic and Puranic Literature

3. The Rāmāyaṇa shows definitely the political application of the idea—"In a country, where there is no king, nobody possesses anything which is his own. *Like the fish* people are always devouring one another."³ It is clearly narrowed down here to signify anarchy in a kingless condition, which is really the starting-point of the theory.

4. The Mahābhārata has mentioned it more than once. "If there were no king on earth for wielding the sceptre of punishment, the strong would then have preyed on the weak *after the manner of fishes in water*."⁴ The Epic has utilised it the most and connected it with its theory of the state.

¹ Ṛig Veda, VII, 18, Vol. II. Griffith's Trans, p. 17.

² XI, 1, 6, 24, S. B. E. XLIV., p. 18.

³ Araṇya Kāṇḍa, Ch. 67, v. 31.

⁴ Śānti Parva, 67 & 16.

5. The Ādi Purāṇa, a Jaina work, has the phrase in connection with punishment. "The world would present the condition of *matsyanyāya* (the logic of the fish) but for coercion."¹ It is like the Nītivākyāmṛitam in this respect, which is also a Jaina book on politics.

6. Matsya Purāṇa appears to be influenced by the Mahābhārata and its distinctive doctrine of danḍa and sovereignty. "The child, the old, the sick, ascetics, women and widows would be preyed upon according to *the logic of the fish*," (should danda, i.e. punishment, fail to operate).²

7. The Yogavāśiṣṭha Rāmāyaṇa uses the phrase in connection with the nether world and has the direct Epic colour in it. "The region of Pātāla being now kingless was *oppressed by the logic of the fish*, that is the strong began to oppress the weak like the fish".³ The description here is similar to that of the Mahābhārata and might have been copied from it.

8. "If the law should fail to protect the people, they would, *following the principle of the logic of the fish*, eat up the children, the old, the afflicted, the maimed, the priests and the women".⁴ Here the Viṣṇudharmottaram gives a most pointed description of anarchy and shows the supremacy of law by putting it in the place of the king.

Legal Literature

9. The Manu Samhitā seems to present the idea in an abridged and metaphysical form. "If the king did not unweariedly exercise the sceptre of punishment on those deserving to be chastised, the stronger would kill the

¹ Ādi Purāṇa, XVI, 252 ; Theory of Govt. in Anc. Ind. P. 224.

² CCXXV. 9.

³ Upaśama Prakaraṇa, 37, P. 318.

⁴ Viṣṇudharmottaram, I. 71, 918 ; Ind. Hist. Quarterly, June, 1927, p. 323.

weaker *like fish in water*”,¹ or “like fish on the spit” as an alternative reading.² The use is fully political and technical.

10. In Vaśiśhṭha’s Institute the proverbial nature of the phrase is evident and needs no comment. “By this time the Rasātala region (the world) became extremely sovereignless characterised by the *ignoble logic of the fish*.”³ The word logic, “nyāya”, used with the adjective “ignoble” is significant.

11. Similarly Nārada in his law-book gives the idea—“If the king were remiss.....the strong would eat up the weaker *like fish on a spit*.”⁴

12. A conception parallel to the oft-quoted phrase the “logic of the fish”, describing the state of nature before the organisation of society, is found in Raghunātha’s Laukika Nyāya Saṁgraha (Popular Legal Maxims, 1500 A. D.)⁵ It is termed “*the logic of monsters*” after the famous story in the Mahābhārata,⁶ where two monsters, Suṇḍa and Upasuṇḍa, decided to determine their right over the nymph, Tilottamā, by the application of physical force. The result was a foregone conclusion, since both the claimants died fighting. This story is also referred to by Kāmandaka in his own political work.⁷ But he has used both the conceptions of the fish and of the monster.

It is quite easy to determine the difference between the uses of the two proverbs. That the latter is an

¹ Manu Saṁhitā, VII, 20.

² See Nārada below.

³ Pol. Theo. & Inst. of Hindus, p. 196. Cf. Maitra’s Gauda-Lekha Mālā p. 19, Laukika Nyāyāñjali, II, p. 57.

⁴ S. B. E. XXXIII. p. 216. This reading is found also in Manu, VII, 20, (Nyāyapañchānana’s Ed.)

⁵ Laukika Nyāya Saṁgraha (Pandit Reprint); Jacob’s Laukika Nyāyāñjali II, p. 86. Pol. Theo. & Inst. of Hindus p. 196.

⁶ Ādi Parva, p. 152.

⁷ Nīti-Sāra, p. 127. Also see below.

imitation of the former is certain, the aim in both being the same, which is the irrational procedure of unsocial elements leading to the ruin of the whole. Col. Jacob has quoted Raghunātha's *Laukika Nyāya-saṁgraha* on the application of the two proverbs. "This *nyāya* is used, says Raghunātha, when the things in opposition are of equal strength, but when they are of unequal strength and the weaker go to the wall, the *matsya-nyāya* is employed."¹

Political Literature

13. In the *Artha Śāstra*, it is to be noticed, the phrase has already passed into a proverb. "Because, if chastising is not exercised, it brings about the realisation of *the proverb of the greater fish swallowing the smaller*. In the absence of the chastising rod the strong devour the weak."² Unlike the Epic, Kauṭilya did not base much of his theory on the conception. In fact he did not speculate on the theory of the state.

14. Kāmandaka is a comparatively later thinker familiar with all the phraseology of his predecessors. "In the absence of punishment *the destructive logic of the fish* acts through mutual animosities of the people leading to the disruption of the world."³ As a follower of Kauṭilya there is nothing distinctive in Kāmandaka in this respect.

15. The *Nītivākyaṁṛitaṁ* says that "unexercised *daṇḍa* produces *matsyanyāya* (*the logic of the fish*) and the powerful eat up the weak" (which is *matsyanyāya*).⁴ The context is similar to that of the *Ādi Purāṇa*. Two

¹ *Laukika-Nyāyañjali*, II. p. 86 ; See also *Pol. Theo. & Inst. of Hindus*, p. 196.

² *Artha-Śāstra*, pp. 10, 26.

³ *Nīti-Sāra*, II. 40.

⁴ *Nītivākyaṁṛitaṁ* IX, pp. 101-9.

ancient authorities, Garga and Guru, are cited, with extracts from their works containing the famous phrase but these are not extant now.¹

16. In the Yuktikalpataru, Manu has been imitated verbally, and the couplet under notice stands thus in translation—"If there were no *daṇḍa* in the world dividing the good from the bad, *the stronger would have roasted the weaker like fish on the spit.*"² The second line occurs in Manu VII, 20, as an alternative reading.

Classical Sanskrit

17. The Kathā-sarit-sāgara has made use of the phrase in its proverbial form and with its political meaning. The excerpt is Tawney's translation—"There is no race in the world without a king; I do believe that the gods introduced the magical name (king) among men in their alarm, fearing that otherwise the strong would devour the weak, *as great fishes eat the little.*"³

18. A masterly touch is seen when the well-known Indian materialistic philosophy is brought alongside of this famous phrase with consummate skill. "Let there not be *the condition of the logic of the fish* in case of disorder (recommended) by the followers of the Lokāyata School." This remark occurs in the Jayamaṅgala Commentary by Yaśodhara on Vātsyāyana's Kāma-Sūtra⁴, but the phrase itself does not occur in the sūtras.

19. The application of the phrase to real history is found in Hemchandra's Dvyāśraya Kāvya (C. 1153 A. D.), which describes through illustrative grammatical forms, the rule of the Chālukya's in Gujrat. Mulraj the

¹ Ibid.

² Yuktikalpataru, p. 15.

³ Kathāsaritsāgara, 102, 63, p. 552. Tawney's Trans. Vol. II, p. 390.

⁴ P. 55. Mohesh C. Pal's Ed., Calcutta.

founder of the kingdom is credited with these words—
“How can we protect with our arms those that are
according to the *logic of the fish* eating up one another
flying and attempting to fly.”¹

20. Abhayatilaka, (C. 1256 A. D.), the commentator
of the Historical Poem by Hemchandra, explains the
phrase “the custom in the oceans” in verse 25 of Canto
VIII like this—“The *logic of the fish* obtains in the
oceans as the strong eat up the weak.”²

21. Another historian, Rājaśekhara, (C. 1348 A. D.) in
his essay on Vastupāla in his Prabandha-Kośa has these
lines—“This country of Gujrat under the evil influence
of time, through the inequity and sins of bad adminis-
trators and in the absence of the master, was troubled
in the way of *the logic of the fish*, like the cow in the
hands of the Mlechhas.”³

22. The Moharāja-Parājaya drama (C. 1230 A. D.) by
Yaśahpāla, a minister of king Ajayadeva of Gujrat, has a
pointed reference to the phrase—“Has *matsya-nyāya*
(the logic of the fish) arisen in my kingdom through the
carelessness of the ministers ?”⁴

Inscription

23. In the Charter of Dharmapāla (C. 730 A. D.)—it is
really remarkable that the phrase was used in a document
of the types. “In order to escape from the *logic of the*
fish.....the people made his father Gopāla accept the

¹ Canto IV, 34, p. 319, Vol. I. (Bombay Sanskrit Series, Bombay, 1915)

² Ibid, p. 599, Vol. I.

³ Ch. 24, p. 206 (Forbes Gujrati Sabha Series, No. 11, Bombay, 1932).

⁴ Act III, p. 50 (Central Library Ed. Baroda, 1918).

sovereignty."¹ This shows once more the popular character of the phrase.

It is also worth noticing that such an important political work as the Śukra Niti does not at all allude to the logic of the fish to symbolise the state of nature. Nor do the Bhāgavata Purāṇa and the Viṣṇu Purāṇa, although both of them trace the rise of kingship in their own way and deal with state-craft and the art of governance and social questions and problems. It may be due to their own traditional method of handling the subject. But nothing can be safely said on this point.

For Western parallels, see Hooker's Ecclesiastical Polity, Hobbes's Leviathan, Spinoza's Tractatus Theologico Politicus, Mill's Liberty.

NOTE 2.

Election and Deposition—Traditional and Historical

In the Vedic and the Epic ages instances of accepted and rejected nominations mark out the selective power in the hands of the people. In the Rāmāyaṇa Rāma's nomination was ratified "with a view to the real welfare of the kingdom",² while in the Mahābhārata as a reminiscence of the fact in the Ṛig Veda,³ Devapi was rejected for his skin-disease.⁴ Puru was accepted after the people

¹ Epigraphia Indica, IV. 248.—"Matsyanyāyamupohitum prakṛtibhir-lakshmyā karaṁ grāhitah."

² Ayodhya Kāṇḍa Ch. II. 20, also I. 11.

³ II, 10.

⁴ Udyoga Parva, 149, 21-25, Vide Ch. I, Mixed Origin of the State.

were satisfied as to the choice,¹ Kuru was selected for his "knowledge of sacred law"², Khali-netra and Vena were deposed.³

The political object of the election of kings is further explicit in the three historical cases of three different periods of Indian history. In the Girnar Inscription of 150 A. D. Rudradaman is said to be "elected king by all the castes for their protection".⁴ The Khalimpur copper plate⁵ states that "in order to escape from the condition of the logic of the fish.....Sri Gopala was made king by the people."⁶ The Chinese traveller Yunan Chwang relates that Harshavardhan was raised to the throne in 606 A. D. by the people because "*the people would trust him*".⁷ The elucidations in these cases are clear and pointed and leave no doubt that common good was in view throughout and that the fear of possible anarchy in the absence of a ruler, or the loss of popular rights in the case of a bad ruler, was in the back-ground as well.⁸

Historical deposition of a king is seen in the fate of Bṛihadhratha,⁹ who was "crushed" because of being "pratijñā-dūrbala", i. e., weak in promise.¹⁰ Similarly Nagadaśaka "the impious" was deposed¹¹ for parricide.¹² These two instances prove that popular judgment was against the kings, their conduct having been condemned by the law of the country. Undoubtedly personal character formed the most important ground for election and rejection and deposition of kings. A rather peculiar remark of Onesicritus is that even

¹ Ādi Parva, 85.

² Ibid, 94.

³ Āśvamedha Parva, 4; Śānti Parva 59. cf. H. Polity & Pol. Theo, p. 195.

⁴ Epigraphia Indica, 1905, 6, 43.

⁵ C. 730 A. D. See Supra, Note 1.

⁶ Ep. Ind. IV. 248-251.

⁷ Beal's Trans. Vol. I. p. 211.

⁸ See Supra, Theo. of the State.

⁹ C. 185 B. C.

¹⁰ Bāna's Harsha Charita, p. 193.

¹¹ C. 602 B. C.

¹² Mahāvamsa, Ch. I, p. 15.

"personal beauty" carried great weight as regards the choice by the people.¹ This is corroborated by Buddhist writers as well.² Magasthenes recorded that vox populi was the general determining condition of succession on the regulating principle of merit.³

The Vedic references illustrate common interest in avoiding defeat and gaining military victory. In the Epics personal qualifications are demanded for the people's good. The later historical citations emphasise the political conditions of the periods and their far-reaching effects. It is actual popular authority consciously acting for definite ends in all corporate capacities. Otherwise there seems to be little difference between Vedic election and the very last one in Indian history, which is of Gopala noted above.

NOTE 3

The Hundred Men Standard

Hindu Politics, so far as known at present, never rose to the absolute idea of vox populi vox dei. Professor B. K. Sarkar has stretched too much the hundred-men standard of Śukrā-chārya⁴ in thinking that this popular demand was of the level of Rousseau's famous maxim. Śukra's own position would rather be like this negatively:—Going against popular opinion is against righteousness and "righteousness is the voice of God."⁵

¹ Modern Review, Jany. 1920, p. 14 ; Camb. Hist. of India. I. p. XVII.

² Rouse's Jātakas II. 242—Uluka Jātaka and Senart's Mahāvastu Avadānam, Vol. I. p. 374.

³ Fragment L., vide Sarkar's Pol. Inst. & Theo. of the Hindus. p. 86.

⁴ Sarkar's Trans. of Śukra Niti, p. 51. See Chap. V, on Vox Populi.

⁵ Śukra Niti, pp. 107, 187.

At the most it could be like the idea of Herodotus that "in the many all things are found,"¹ with a practical import. More significant and powerful is the idea—"there is God in the pañch" (i. e., the five, or the committee of the five), showing the element that is divine in the findings by a number of people.² Such an idea gives at once absolute authority and validity to the pronouncement of "the five," which would naturally be representative of popular demands and notions.

Another striking characteristic of "the five" is its purificatory power in the popular mind. Its decision and award of punishment is supposed to purge the offender of his sins. Dr. Mukherji has adduced the proverbial phrase, "Pañchāyet Gaṅgā," in support of this view. The Committee of the five is "the Ganges river" to the man fallen in the eyes of custom and law; and as the Ganges purifies the bather, the offender is likewise purified by the verdict of the pañch.³ This is evidently based on the maxim of Parāśara—"Like water.....that is purified by the agency of the Sun and air, a penitent is purified of his sin through the dictate of the synod. As water that is dried up by the Sun and air, the sin of a penitent is extinguished by the order of the parishad. It does not attach itself either to the penitent or to the synod."⁴ For a similar idea of expiation of sin through punishment inflicted by the king reference may be made to the "Principles of Punishment,"⁵ in the writings of Hindu Political thinkers. The thought in both cases expects, having first assumed the principle, the neutralisation of the evil effects of offence by the opposite effects of condign punishment timely meted out.

¹ Quoted in Greek Commonwealth, p. 160.

² Matthai, "Village Govt." p. 19.

³ Democracies of the East, p. 271.

⁴ Parāśara Saṁhitā, VIII. 17, 18.

⁵ See *Infra*, Sec. on the subject.

Another conception closely related to Vox Populi is that of looking upon the whole body of the people as the god Vishṇu. It is more generalised than the idea of God dwelling in the Pañch, the committee of the five. Chāṇḍeśvara in his Raja-Nīti Ratnākara has categorically asserted that "the people (collectively) are the very god Vishṇu,"¹ meaning thereby that the divine is embodied in the people and therefore they ought to be treated with respect and their unanimous voice has consequently a sacred validity.

NOTE 4

Radicalism in Sacred Law

Although the sacred laws do not as a whole or everywhere stand for radical principles, like those of the Mahābhārata and the Śukra Nīti dealt with before, yet some of them are not altogether silent on the subject of the abuse of political authority in any way. Their attitude is characteristically judicial in this respect and consequently is not so drastic, nevertheless strong and at the same time consistent with their canonical and generally orthodox outlook. The object aimed at by them is restraint and punishment of royal delinquency rather than total destruction and tyrannicide. Only two exceptions, in Yājñavalkya and Manu, are met with in the whole range of canonical law, where radicalism of the Epic type is incorporated with legal literature.² Such a stream of thought coming down presumably from a very old tradition is at present untraceable back to its source. Both in Mann and Yājñavalkya is noticed the mention of the

¹ p. 83, Jayaswal's Ed.

² See Supra, Ch. VI., Yājñavalkya and Manu on revolution.

judicial hold on the king ending in a voluntary, or better still customary, penitential observance. This legal check on royal power is also found in the Mahābhārata imbedded along with the boldest and the most sweeping pronouncements.

The judicial method treated here seems to be akin in spirit and procedure to the ancient custom (law?) requiring the king to compensate undiscovered and undetected theft and the assumption is that such a custom is invariably followed and carried out, there being none to enforce it. Gautama, one of the canonical legislators, lays down that—

“Having recovered property stolen by thieves, he (the king) shall return it to the owner, or he shall pay out of his own treasury (if it is not recovered).”¹

This is in reality an indirect method of fining the head of the state for undutifulness or lack of proper policing, since it is supposed that the people cannot suffer having paid taxes. Otherwise there is no other explanation for a rule of this type in the canonical writings. It takes for granted that the king is in charge of the whole state and his duty is protection and loss means mismanagement on his part. More serious mismanagement only makes for misrule. This idea comes straight down to the Agni Purāṇa², modified and modernised to a great extent, where the king is allowed to deduct the amount from the salaries of police officers.

The rule of direct fining is prescribed by Yājñavalkya, another canonical legislator of great repute, in case of any miscarriage of justice by the ruler. The idea is the same as above, but the cause and content are different. With reference to unjust punishment (in the shape of fines) his recommendation runs as follows :—

¹ Gautama, X, 46-47, Cf. Vishṇu III, 66-67.

² Ch. 222.

“The fine, that has been realised by the king illegally, he shall make thirty-fold (from his own pocket) and after dedicating the same to Varuṇa (the god of water) he shall make it over to Brāhmaṇas.”¹

Manu's treatment of the matter is, as is expected, thorough as well as drastic. In him the sacred law rises to its highest pitch combining together the characteristics of orthodoxy and radicalism. He enjoins direct restraint to be exercised on the ruler by the Brāhmaṇas as law-givers, and then fining him proportionately for offences committed by him. Thus—

“If common people are fined 10 *panas* for an offence, the king shall be fined 1000 *panas* (100 times more) for the same offence and the royal fine shall be thrown into water.”²

Then he lays down the general proportionate rule for all castes beginning with the lowest. For instance—

“For theft (misappropriation etc.).....Kshatriyas (the ruling class) should be fined 36 times more and the Brāhmaṇas 100 times more.”³

His explanation for allowing the Brāhmaṇas to check the king in any undue exercise of royal authority is the orthodox conception that the Brāhmaṇa is the original caste, the first in respect of birth as well as culture.

“Brāhmaṇas shall restrain the Kshatriyas, the ruling classes, (through curses etc.), since the latter grew out of the former. As fire is born of water and iron is made out of stone and Kshatriyas grew from Brāhmaṇas.....their forces vanish at (in touch with) their sources.”⁴

Apparently the Mahābhārata has closely followed Manu, or in other words the old tradition that is represent-

¹ Yājñavalkya, 309-310.

² Ibid., VIII, 337.

³ Manu Samhitā, VIII, 336.

⁴ Ibid., IX, 320-321.

ed in Manu's Laws, with slight variations here and there. So far as the orthodox stratum of the Epic politics is concerned, it may be safely said that it contains no new matter on this point, more than being just a little bolder with the passing of time and perhaps a little more advanced from the contact with later radicalism. Otherwise the thought and the explanation are the same in every respect, accepting the old sociological data handed down from the Vedic period, which is Brāhmanical superiority in everything due to seniority in growth.

"When the Kshatriyas become turbulent towards Brāhmaṇas, the Vedas (representing holy knowledge) would save them, and they must at the time thwart them (the Kshatriyas), carefully protecting themselves by all means, such as religious penances, force and weapons, goodness and policy. Fire rose from water, the Kshatriya from the Brāhmaṇa, and iron from stone; their forces can act everywhere, excepting on their own place of birth."¹

There is also a significant hint in this connection in the text, about four lines below the extract given above, that "all the castes ought to take up arms to protect Brāhmaṇas" under such circumstances. This seems to be an addition to the orthodox thought of this portion of the Mahābhārata.

Even in the secular politics of Kautilya much of the canonical tradition is found intact, almost verbatim. He has the same treatment for theft as in Gautama, and for illegal fine as in Yājñavalkya.² This is explained on the basis of the theory of punishment as absolution from sin and as such it was the common idea of Hindu India.³ The

¹ Sānti Parva, 78.

² See above.

³ Vide Supra, Ch. XI, Theory of Punishment.

passages bearing on this matter are given below from the Artha-Śāstra—

(a) "Whatever of the property of citizens robbed by thieves the king cannot recover shall be made good from his own pocket." Further—

(b) "When the king punishes an innocent man he shall throw into water a fine equal to thirty times the unjust imposition." "By this act the king shall be free from the sin of unjust imposition."¹

Throwing of the king's fine into water for the sake of the god Varuṇa and giving it to Brāhmaṇas are also mentioned by him, up to the fining of the heads of villages.²

NOTE 5

I

Divine Right, Eastern and Western

The main lines of thought, dealing with the Divine Right of Kings, being almost similar and parallel in the West as well as in the East, the differences do not come up to the surface as often as expected. Yet there is a crucial difference in the very source of the idea on which authority was supported and explained. Agreement of the principal features of the subject has already been laid down, but there remains still one particular point, characterising the Eastern approach to the problem, which shows the divergence inside apparent similarity. The theory of incarnation, in its extreme generalisation, is seen in Indian religious literature, where anything with any degree of special or remarkable excellence is said to be so far representative of and pertaining to the perfection of God. Thus the Gītā says in the words of its incarnate god Kṛishṇa.—

¹ Artha Śāstra, pp. 241, 296.

² Ibid, pp. 293, 296.

"In fact of things possessed of excellence and power
All are created out of the parts of my own (divine)
quality,"¹

That such religious attitude affected politics itself may be posited with some degree of certitude, and such influence was usual and partly unavoidable in all early thought. Hence naturally enough the king as the supreme head of the state, typifying a kind of human excellence, was considered a fraction of a partial incarnation of the divine. It is but a logical conclusion of a period, when politics and religion were in very close connection and admitted mutual exchange of ideas to a considerable extent. Moreover, this supplied a good explanation of royal authority, where there was none of the kind, and a safeguard against popular attacks, (or encroachments), when political power itself was not properly consolidated.

In the West the king was made into the vicegerant of God on parallel assumptions of a theological nature. That is to say he fully represented God and His power on earth without being God in any sense. It served the same purpose of establishing authority of the time on solid grounds. About the growth of this conception Dunning says—"Authority from above and not from below was the principle of both ecclesiastical and secular order; and if episcopal authority should give way to that of chosen representatives of the congregations, the royal authority was likely to experience a like fate—No Bishop, no king.....On this platform of a divine commission to

¹ Gītā, X (free translation); Cf. Carlyle's French Revolution—"A symbol which might be called sacred, for is there not in reverence for what is better than we, an indestructible sacredness? On which ground too, it was well said, there lay in the acknowledged strongest a divine right, as surely there might be in the strongest, whether acknowledged or not, considering *who* it was that made him strong."

rule James consistently maintained his stand against all pretensions to power by his subjects."¹ Texts were not wanting, nor was interpretation failing to give a full religious colouring to this political question.

Yet the East evidently outdid the West in respect of finding out an almost absolute theological foundation for royal power. This again is due to the innate difference between the two religions—Hinduism and Christianity—which were called to aid and erect the theory of divine right. Christianity as a religion did not and could not have admitted a multiplicity of incarnations, which perhaps accounts for the idea of the deputation of authority from God. Hinduism had a larger scope and had not to labour under scruples of this type. Consequently the conception was pressed to the extreme allowing the king to be magnified on various grades and styled "the chief god on earth."² This was certainly more than what is meant by "God's vicegerant on earth," although for political purposes both ideas were alike and practically served similar ends. Further, in making the king an incarnation of God the Hindu religion successfully evaded and suppressed all popular pretensions, since no higher position could be predicated of any being under the sun. This was undoubtedly the worst possible theology, probably outrageous in its consistency and doing more for politics than for itself. Even Dante's bold statement pales before it as he says—"all powers that are sub-demised by superior rulers can in the last resort be regarded as emanations from the divine government of the world."³

¹ Dunning, *Pol. Theories from Luther to Montesqueiu*, pp. 216-217.

² See above, Chapter VII, Divine Right of Kings.

³ Gierke, *Pol. Theo. of the Mid. Age*, p. 31.

II

Opinions of Authorities

(1) Professor P. N. Banerjee holds that 'the Hindu king's claim' was very different from the divine right... 'the right divine to govern wrong' to use the words of a famous historian—which was claimed by the monarchs of Europe in the latter part of the middle ages. Kingship in India was a political office and not the sphere of power of a fortunate individual."¹

(2) Professor Bhanarkar's view is that "a theory similar to this is the theory of the divine right of kings, which was started and developed in Europe by the Christian apostles and fathers. We know to what absurd and pernicious extent it was carried in Europe. Fortunately for India, though the divine origin of kings was maintained by some people, it was never pushed to this absurd extreme, or for the matter of that to any absurd extent."²

(3) Professor B. K. Sarkar has observed "that the king is not sacred...Hindu thought does not seem to have ever recognised any "divine right" of kings, just as Hindu history does not know any theocratic state."³

(4) Dr. U. Ghosal's position is that "the king is never declared to be a god by virtue of hereditary descent. The king then has no indefeasible hereditary right following as a corollary from his divinity."⁴

(5) Dr. N. N. Law has remarked in connection with the "Evolution of Kingship" without any explicit reference to the point itself..."We have noted the various other ways in which supernatural powers may be attributed to the

¹ Public Admin. in Anc. Ind. p. 71.

² Carmichael Lectures, p. 129.

³ Pol. Inst. & Theo. of the Hindus, p. 179.

⁴ Hist. of Hindu Pol. Theo. p. 33.

sovereign. It is but a step from these supernatural powers to his godhood and the former easily leads to the latter". But "deifications.....are not the exclusive possessions of kings" in India.¹

(6) Mr. E. B. Havell has clearly put the point like this, ".....In Aryan polity the divine right of kings was never recognised as a personal attribute of the monarch belonging to himself and his family. He had no right except that which was conferred by Aryan Law.....".²

(7) "It is to the credit of the speculative mind of the Hindus that it long ago perceived the necessity of recognising the existence of limitations to the absolute authority of the state, over and beyond what is called the normal right to resist gross misgovernment.....In the later evolution of theories of sovereignty and of doctrines of Divine Right, Indian conceptions made a most significant reservation, which theories in the West did not do. In India no king however divine was above the law...Western Europe has only in recent years discarded the absolute theories of sovereignty which Austin purified in England."³ This is Mr. Row's finding.

(8) "Neither in the Vedic period nor in the times of Kautilya, divine birth or right of kings seems to have been thought of.....Later politicians of India seem to have invented and developed the idea of divine birth and right of kings as the *sine qua non* to royal power"⁴—says Dr. S. Sastri.

(9) "The East has an instinctive belief in kings as heads of states and does not think it impossible that there may be a 'divine right' of kings, i.e. a right to serve the

¹ Aspects of Anc. Ind. Polity, pp. 133, 139.

² Aryan Rule in India, p. 35.

³ Row, Devel. of Democ. in India, p. 114.

⁴ Evolution of Indian Polity, S. Sastri, p. 145.

state in its most onerous position, won by less onerous services well and truly performed in past lives.”¹

(10) “.....This justification by the highest authorities of the right or even the duty of insurrection and regicide in extreme cases is sufficient to show that absolutism or the unconditional divine right of kings was no part of the intention of the Indian political system.”²—Arabindo Ghose’s finding.

(11) “Both jurists and political scientists rejected this trick³ of the ‘Divine Right’....It was opposed to all tradition, Vedic rituals of coronation and kingship and the very spirit of Hindu Law, which refuses to place even gods above the law and which distinctly places kings under it.”⁴—Jayaswal’s opinion.

NOTE 6

Brāhmaṇa-Kshatriya Combination

Historically it is impossible to find out the exact conditions, that brought about the formulation of constitutionalism in India, as much as the time when it rose and took shape definitely. Only a vague guess is at the most possible with the data procurable from the records of the past. The Brāhmaṇa-Kshatriya combination, which is so clearly and positively indicated in the Manu Samhitā and the Mahābhārata, gives a clue to be worked out properly, and has also great value from the philosophical standpoint. It was a necessity of the time, at first practical and afterwards theoretical. A suggestion may hence be made to the effect that the very fact of the unity between these two divisions

¹ Meeting of the East and the West, Jinarajadasa, p. 24.

² A. Def. of Ind. Cul., by Arabindo Ghose, Arya, Oct. 1920, p. 179.
Manu and Yājñavalkya, pp. 98, 99.

⁴ Ibid p. 101.

of the people, representing intellectual and military powers in society, supplied the starting-point of constitutionalism or an effort to co-ordinate the forces through compromise to the conservation of interests. The earliest notice of this synthesis is found in the Ṛig and the Atharva Vedas and consequently the fact recedes behind strictly historical periods. Say the Ṛig and the Atharva Vedas—

(a) "The king and the scholarly priest are the sustainers of the world order".¹

(b) "As Brāhmaṇhood and Princely power fear not, nor suffer loss or harm".²

It is to be understood that by the time the tenth book of the Ṛig Veda was written, later additions were made to it like the verses on the four castes. The Atharva Veda has genuinely dilated on it giving the parallels of heaven and earth, day and night, the sun and the moon, to illustrate the co-ordination of the powers, like Dante's use of the analogy of the sun and the moon in regard to the church and the state, spiritual and temporal powers, the Emperor and the Pope.

The tradition was accepted as authoritative by Gautama³, Manu and the Epic and was carried and preserved by the last two works. Manu explicates the position thus—

"Just as the Kshatriya never prospers without the Brāhmaṇa, so the Brāhmaṇa does not increase without the Kshatriya. This world and the next do well when Brāhmaṇahood and Kshatriyahood are united".⁴

¹ Ṛig Veda, X, 65, Quoted in Ethics of India, p. 35.

² Atharva Veda, II, 15, Griffith's Trans.—So the Aitareya Brāhmaṇa abstractly distinguishes between "Holy power" and "Lordly power"—

"He, who has recourse to the kingship, has recourse to the Lordly power"

"He, who has recourse to the sacrifice, has recourse to the Holy power".

(Keith's Trans., Harvard Oriental Series, Vol. 25, p. 311.)

³ VIII. 1.

⁴ Manu, IX, 322.

Again—

The Brāhmaṇa and the Kshatriya are the root and the head respectively of righteousness".¹

The Epic practically repeats Manu and has probably no theory of its own to offer in place of that of the great legislator. Moreover, the radicalism of the Epic did not allow it to pass uncriticised. The following lines illustrate the usual orthodox position—

"Brāhmaṇa and Kshatriya powers being united destroy enemies. If the kindness of Brāhmaṇas and the power of the Kshatriyas are united happiness and prosperity increase in the world".²

"The people cannot be protected, when the powers of the Brāhmaṇas and of the Kshatriyas are separate. They ought to be combined in the opinion of the wise for the purposes of (good) government".³

It was Kārttavīrya, who challenged this Brāhmaṇic supremacy by saying that "the Brāhmaṇas lived in the shelter of Kshatriyas and therefore they could not be considered to be superior".⁴ He tried to make the world "Kshatriya-dominated" in the language of the Epic and thus he met with his end.⁵ Definite Brāhmaṇic supremacy is asserted in the Aśvamedhic Parva⁶, in giving the highest position to the Brāhmaṇas.

Number of Ministers

The Hindu theorists usually tried to do things to perfection. The numerical strength of the state council, or the ministry, was one of the points which they tried to calculate and put down as a rule. Different authorities fixed it differently. The "sabhācharas" and "sabhā-sadas"

¹ Ibid, XI, 84.

² Vana Parva, 25.

³ Rājadharmānuśāsana Parva, 74.

⁴ Anuśāsana Parva, 152.

⁵ See Chapter on Republics in Supplementary Volume.

⁶ 10.

of Vedic fame are already known¹, though they are not to be regarded as ministers, yet they were important factors in the state.

The following numbers are recommended—

1. Manu—seven or eight ministers.²
2. Mahābhārata—four Brāhmaṇas, eight Kshatriyas, twenty-one Vaiśyas, three Śūdras, and one Suta, or at best three on the whole.³
3. Kauṭilya—quotes authorities. According to Manu twelve, Bṛihaspati sixteen, Uśana twenty, his own view being as many as are required by the state.⁴
4. Kāmandaka—follows Kauṭilya in citing authorities and recommends five, seven or more.⁵
5. Śukra—is not quite explicit. Probably he means a cabinet of the ten heads of departments, called the “king’s ten departments”.⁶
6. Somadeva Surī—three, five or seven ministers should be appointed.⁷

NOTE 7.

Practical Political Ahimsa

The climax of the ahimsā doctrine in the sphere of practical politics is shown by a Buddhist legend found in a number of books. Here the East conceived the inconceivable, namely, a whole nation given to absolute non-violent and non-resisting attitude in the very face of an attacking enemy. Dr. B. M. Barua in his forthcoming

¹ Aspects of Anc. Ind. Polity, p. 25.

² VII, 54.

³ Śānti Parva, 83, 85.

⁴ Artha Śāstra, pp. 32-3.

⁵ Nīti Sāra, p. 180.

⁶ Śukra Nīti, p. 68.

⁷ Nītivākyaṃṛitaṃ, 10, p. 123.

book on the Buddhist Inscriptions has referred to the story in full details. It has four versions, Pali, Sanskrit, Chinese and Tibetan, all agreeing as to the main drift of the plot.¹ The appropriate motto of the legend is "Even if they be dying themselves". The world has probably no other (even imaginary) history of this type to portray social idealism of such an exalted character.

The narrative, when it is collected and completed from the Bhaddasala Jātaka,² the Avadānakalpalatā,³ Rockhill's Buddha,⁴ Hwen Tsang's Travels⁵, gives the picture of the Śākya clan after their thorough assimilation of the teachings of Buddha. Dr. Barua describes the incident as follows :—

"The common point in all these versions is that to feed fat his ancient grudge, king Viḍudabha or Viruḍhaka of Kośala advanced with a large army against the Śākyas and as he reached the boundary of his kingdom, he found the Master (Buddha) seated beneath a tree, that gave scanty shade and stood on the boundary of Kapilavastu. Hard by that place, a shady tree stood on the boundary of Kośala. According to the Pali version the latter tree was a huge banyan. Viruḍhaka, seeing the Master thus seated, alighted from his chariot and said respectfully approaching him, "Why, Sir, are you sitting there under so thin a tree in all this heat? Why do you not sit here under the umbrageous tree, Sir?" He replied, "Let it be, O king! The shade of my kindred keeps me cool". The other thinking the all-powerful Master had come to protect his clansmen returned to his capital after saluting him. In the Pali story we read that three times he marched and returned on account of the Master's interven-

¹ Ms. of Buddhist Inscription, 12, Pl. No. 170. Cf. Carm. Lec. 1918, p. 67; Early Hist. of Ind., p. 38.

² No. 465.

³ V

⁴ Pp. 77-78, 116-122.

⁵ Beal's B. Records of the W. World, II, p. 4.

tion. The fourth time he set out, but the Master did not go, seeing it was impossible to save the Śākyas, who sinned against one another (by quarrelling). The label refers to the non-violent attitude of the Śākyas, taking advantage of which Viruḍhaka slew all the Śākyas except Mahānāma and his family and those who fled away”.

It happened in this way, “All the Śākyas took a strong vow to remain non-violent to the last, even if they died. They expelled their clansman Sampaka, who gave battle not previously knowing their decision. When Viruḍhaka marched with his troops to Kapilavastu, those among the Śākyas who were not Buddhists, (only a small and minor part), got together their army to repulse him and those who were Buddhists and averse to killing anything carried cudgels and goads to cut the bow-strings and trappings, though at last with a united resolve, they issued a proclamation prohibiting all from attacking Viruḍhaka or his army”. Thus died the whole clan of the noble Śākyas, who had the courage to act out in practical life the teaching of Buddha on non-resistance and non-violence. The imagery is full of pathos considering the three stages of arriving at the momentous and decisive conclusion. One can imagine them discussing the points nationally in their note-hall. This was certainly worthy of the clan that produced the great Buddha, the light of Asia.

The story may not be fully true in all details, but the idealism of the story-teller is praise-worthy in conceiving absolute ahimsā on a national scale. It shows once more the depth to which Buddhist ethics had gone into the hearts of men, before such an account as this was possible in the imagination of the writer. Thus today Mahatma Gandhi's nation-wide appeal may be well understood from this stand-point, where politics and economics are both to be spiritualised for serving the highest ends of humanity.

NOTE 8.*Political and Legal Sovereignty*

The distinction between political and legal sovereignty is not very clear in Hindu thought. Both shade off imperceptibly into each other, causing the same confusion of ideas as in the West. The Doctrine of Daṇḍa has political as well as legal content, but the former is the main concern of political philosophy, since "political sovereignty is practical supremacy". The lawyer is interested in the state, in so far as the state takes in definite organisations recognised by law. The political philosopher, desirous of penetrating more deeply into the nature of things, looks behind such organisations to the powers or forces which find expression in them.¹ This is exactly the view-point of daṇḍa standing for the supreme power exercised by the state. Its legal character resides in its functions, as punishment (also called daṇḍa) regulated by dharma (law),² which limits it and is in turn preserved by it. The power of the state and the power of law are ultimately interchangeable, their spheres, functions and limitations are different, but their source is identical, which is, the ethical principle underlying human nature and society.

Popular Sovereignty

The formulation of the principle of popular sovereignty in abstract is not generally met with, except in its extreme form in the right to revolt. The practical precepts of the Vedic age were of great value indeed and so were the

¹ Austinian Theory of Law, Jethro-Brown, p. 276.

² See S. Vāchaspati's Bengali Treatise on Law and Punishment in Anc. India, p. 15.

Wage theory of the Buddhist period and the Social Contract of the time of the Epic. Yet a philosophical expression in a clear statement was wanted for the sovereignty of the people. The Agni Purāṇa in two stray passages supplies the idea in a fairly well-developed form. Thus—

“The royalty of the king and the prosperity of the world are born out of the good-will of the people. Pleasing the people and welfare from the love of the people—these two are the two means to sovereignty.”¹

Here the principle of popular sovereignty is laid down clearly, as far as it was understood in those days and there is no doubt that the will of the people is indicated to be the source of sovereign power. Unfortunately it was never elaborated systematically.

NOTE 9.

Ordeal and Turning-point of Law

A very important legal development is evidently seen in the insistence on human proofs in preference to trial and judgment by chance or Ordeal. It shows the passage of primitive (sacred) law to positive (secular) law as “directed to worldly ends and purposes of man.”² Professor Hopkins has unfortunately taken no note of this significant fact in his admirable article on the “Growth of Law and Legal Institutions” in the Cambridge History of India.³ Reference to Yājñavalkya, Viṣṇu and Kātyāyana could have easily settled the point, for in these writers on law there are amply good suggestions in favour of secular

¹ Agni Purāṇa, 164, 165, pp. 265, 266.

² Cf. “Prāyeṇa vyavahāra smṛitinām lokasiddhārthānuvādatvamiti &c.” (Viramitrodaya, p. 534. J. Vidyasāgara’s Ed.)

³ Chapter XII. pp. 277-294.

law and empirical procedure. In fact Mr. Jayaswal has observed that all works of the tradition of the Arthaśāstra discourage chance procedures.¹

The question in fact turns on the application of empirical methods for human ends. Mr. A. C. Gupta has commented on this attitude of Hopkins² from the strictly juristic point of view, showing how a slight over-sight may affect the whole spirit of law and its progress. "The serious study of Hindu Law has suffered owing to the preponderance of exclusive historical interest. One result has been to attract and confine attention to the primitive strata of Hindu Law to the neglect of the development and the mature system. A recent illustration is Professor Hopkins' chapter in the Cambridge History of India.....The Professor devotes a proportionately large portion of his short paper to an account of ordeals. It prevailed in early Hindu Law just as in other Aryan Laws. A study of Hindu ordeal is of interest to a comparative study of this primitive method of trial."

What is undoubtedly of far greater importance to the jurist is the process by which Hindu Law set at naught these primitive methods, and substituted in their place the rational method of proof by witnesses and documents. But this is exactly the thing which does not interest Professor Hopkins, though he need not have travelled beyond Yājñavalkya for a clear account of this process. Judicial proof consists of documents, evidence of possession and witnesses. If none of these are available, resort is to be had to proofs divine, i.e. ordeal.³ The Mitāksharā thus brings out the meaning of the text. It is from this text alone that one knows that in the absence of human

¹ Manu and Yājñavalkya, p. 134.

² Spirit of Hindu Law, Cal. Law Journal, XLIII, Jan., 1926, p. 11.

³ Yājñavalkya, II. p. 22

and rational proofs ordeal is a mode of judicial proof ; for the nature and validity of ordeal as proof can only be known from the text of Śāstra. And therefore where of two disputants before a court of law, one has human proof and the other resorts to ordeal or divine proof, the human proof is to be accepted. As Kātyāyana says—if one adduces human proof and the other divine proof, the king must accept the human proof and not the divine.¹ Further according to the gloss Subodhinī—if ordinary empirical method of proof is available, it is improper to resort to the supra-sensible.² “The nature of ordeal and the validity of its proof are known only from the śāstra and it is thus supra-mundane and supra-sensible. And so long as empirical proof is possible, there is no scope for the supra-sensible mode of proof.”³

This method of restricting the scope and of practical supercession of a primitive traditional institution of law, by classifying judicial proofs into human and divine, is an interesting device in the development of all systems of law. It is the same case with Roman Law of conveyance, and classification of things into *res mancipi* and *res nec mancipi*. Hindu law got rid of the primitive religious and semi-religious elements by developing a sharp distinction between things mundane and things supra-mundane, between what is religious and what is temporal, by giving to God what is God's, but to Cæsar what is Cæsar's.⁴

The turning point of Hindu Law is thus illustrated in the system of ordeal, and it is only one of the instances where the passage to positive law is indicated in unmistakable terms by more than one law-giver. In simple

¹ See Spirit of Hindu Law, Cal. Law Journal, XLIII, Jan. 1926, p. 11.

² Ibid and Mitāksharā, II, 22.

³ Quoted in Mitāksharā, II, 22.

⁴ Spirit of Hindu Law, Cal. Law Journal, XLIII, Jan., 1926, p. 12.

words "ordeal was imposed on law" according to Mr. Jayaswal.¹

Hopkins probably agreed with Willoughby, who in his "Nature of the State", (p. 12), held that Hindu Law had its origin and sanction only in religious scriptures. It is unfortunately a statement, which has failed to distinguish between the two definitely marked divisions of law, which obtained among the Hindus of ancient time. Fortunately Jolly has pointed this out roughly on the authority of Āpastambha 2, 29, 6 and Yājñavalkya, 2, 22 and later law-givers.²

NOTE 10.

Analysis of Ownership.

Vijnaneswara and Jimutavahana.

The treatment of ownership in the abstract by later Hindu jurists is instructive as well as profitable in directing and contributing thought to the problem of property. The summary disposal of ownership, seen in Nārada, Bṛhaspati and Śukra on the basis of mere possession³, is legally explicated by Vijñāneśvara in the Mitāksharā Commentary. Having started from the eight classical and traditional modes of proprietary right or acquirement of ownership, such as inheritance, partition, gift, purchase, labour, finding, seizure and conquest according to Gautama,⁴ he raises the question—"Is ownership a concept known exclusively from Śāstra, or is it a concept reached through other and secular sources of knowledge?"⁵

¹ Manu & Yājñavalkya, p. 134.

² Hindu Law & Custom, p. 308.

³ See above Ch. XII on Property; Nārada, I. 84, 85 (S. B. E); Bṛhaspati, IX, 22 (S. B. E), Śukra, p. 210.

⁴ Gautama Saṁhitā, X, 39-48.

⁵ Mitāksharā II. 114.

It is both technically and philosophically an important point, since the very object of ownership is deeply involved in it and this is determined by the interpretation given to it. Indeed "some Mimāṃsā writers set up the doctrine, as things are necessary for the performance of all (religious) sacrifices, property in things is a religious concept and should be regulated by religious principles."¹ As noticed at the beginning of the chapter on property the idea comes down from the Bṛihadāraṇyaka Upanishad. It has nothing very significant in it, except illustrating the psychology of property as a realised need. The over-emphasis on the religious principle by this school is to a certain measure similar to what Dunning has pointed out as the extreme religious claim according to papacy over all temporal things including property.² Hindu orthodoxy was naturally enough keen on the point of assigning all property to purely religious purposes and seeing only a religious object in it.

Vijñāneśvara's broad reply is—"But notwithstanding these arguments, ownership is in fact a matter of secular experience, for it serves secular ends and purposes like food-grains and other earthly objects". Moreover, "it is not possible to maintain that what serves secular purposes, like sale etc., is the material object like gold, while ownership is supra-sensible, for a purpose like sale is not served by the thing but by ownership in the thing."³ It is a really subtle argument, since "what is not one's property will not serve one's purpose like sale". Ownership, therefore, is a complex idea depending on its purely non-secular

¹ Spirit of Hindu Law, Calcutta Law Journal, XLIII, p. 3.

² Dunning, *Pol. Theories, Ancient and Mediæval*, p. 217. The saying of Augustinus may be remembered here - "private property ceases to be such ...by divine law for the sake of charity." (*Ibid*, p. 219)

³ Spirit of Hindu Law, Cal. Law Journal, XLIII, p. 3.

and supra-sensible character. Yet it cannot be easily separated from the concrete, though it is abstract by nature, and the concrete is always carried on with the conceptual element.

Ownership does not mean merely perceptual recognition or experience as in the case of possession. It goes deeper than this external sign of ownership of a primitive stage. Says Vijñāneśvara—"Again if ownership were but a fact of perceptual experience, complaints such as my property has been stolen would be meaningless, for the ownership would be in a thief; and moreover if such were the nature of the ownership there could not have been any doubt in a matter of disputed ownership, whether it belongs to this man or to the other, as there is no doubt when in fact a thing is of gold, that it is gold, or of silver that it is silver." In summing up his argument the commentator has observed that "it may not be understood that all this leads to the position that there is ownership in things got even by thefts etc., for such are not recognised amongst men as modes of acquiring ownership and the idea would be contradictory to established usage."¹ It is thus again a question "of the existence of titles creating ownership." But the analysis here does not go beyond popular or social recognition and usage. Just a little advance is seen on the position of Śukra,² which does not mean to be final in comparison to the masterly insight of Vijñāneśvara. The basis of recognition and usage in establishing ownership has not been explained and something may still be said in this respect. Yājñavalkya's idea of "āgama"³ gives a clue to this problem, but it is not definite enough to furnish a solution going beyond Manu

¹ Mitāksharā, II. 114.

² See Ch. XII—Śukra on property.

³ See Ch. XII. on the Rise of Property, and Jolly, Hindu Law & Custom, Eng. Trans. p. 201.

and Locke. It undoubtedly involves the idea of creation as noticed above. The progress to a moral consideration of such a title is perhaps what is needed in the way of explanation, which may generally cover every type of argument.

Jimūtavāhana, the author of the Dāyabhāga Commentary, adds this moral element as the key to ownership. Presumably he takes up the argument, and after setting aside mere "*bhoga*", enjoyment of property, as simple possession,¹ sees something ethical in it. Mr. Sarkar has consequently remarked—"Jimūtavāhana does not controvert the general proposition that a mere moral precept... does not over-ride Vyavahāra (positive law) as settled more or less by popular recognition. What he desires to show is that this conception of property is devoid of ethical considerations and consists of physical acts merely. According to him, popular recognition is no doubt a factor of the conception of property, but it must be such as to be ultimately justifiable by the consciousness of dharma (duty, righteousness). The chief factor of the idea of property, in his view, is the ethical factor."² The commentator has very cleverly used the case of transfer of property to illustrate and support his own position. He adduces the common instance of gifts to priests. Here the worldly side of the thing is the mere appropriation by the priest and it is palpable. But that cannot be said to be the proprietary right he acquires. This is but an incidental action (*pratipatti karma*) falling short of the expected causal connection. There is something more than the perceptual transference. The real cause of the transfer of proprietary right is "the pious mental action of the

¹ Vyavahāra-Māṭṛika, p. 347, Sir Ashutosh Mukherjee's Edition.

² Mīmāṃsā Rules of Interpretation, (Hindu Law), p. 393.

votary"¹ It is here that the essence of right is to be looked for in such cases.

The problem of ownership cannot, therefore, be disposed of quite easily, apart from ethical considerations which come in at every step. The object of property also holds this question in solution with other connected ideas. It may not rise to the surface at the time, but its significance is not lost thereby. The commentators have proceeded on juristic assumptions and dealt with the subject from their juristic point of view. They shifted all the conditions under which ownership could appear and tried to place it on a permanent basis, which would not yield to criticism. This is an unchanging element to constitute the very essence of ownership.

NOTE 11

Approximate Chronology of Principal Texts

1. *Vedic Literature*—C. 1200—1000 B. C.
Rig Veda, Yajur Veda, Atharva Veda (still later).
(From Max Muller's *Rig Veda Samhitā*).
2. *Brāhmaṇa Literature*—c. 800—300 B. C.
Aitareya Brāhmaṇa, Śatapatha Brāhmaṇa,
Taittirīya Brāhmaṇa.
(From Keith's Article in *Cambridge History of India*.)
3. *Upanishadic Literature*—c. 500 B. C.
Bṛihad-āraṇyaka Upanishad, Chhāndogya Upanishad.
(From Farquhar's *Outline of Religious Literature*).

¹ See *Ibid*, p. 394.

4. *Legal Literature*—c. 600 B. C.—700 A. D.*Sutras*—c. 600—400 B. C.Gautama, Baudhāyana 600-500 B. C. Āpastamba,
Vaśishṭha 500-400 B. C.*Sastras*—c. 200—700 A. D.Manu, c. 200 A. D., Viṣṇu, c. 300 A. D., Yājñi-
valkyā, c. 400 A. D., Nārada, c. 500 A. D.,
Bṛihaspati, Kātyāyana, c. 600-700 A. D.5. *Epic Literature*—c. 500—50 B. C.Rāmāyaṇa—c. 500 B. C., Mahābhārata (present
from) c. 300 A. D.

Harivaṃśa—c. 400 A. D.

(From Macdonnell's History of Sanskrit
Literature).6. *Purāṇa Literature*—c. 400 A. D. ff.Viṣṇu Purāṇa—c. 403 A. D., Bhāgavata Purāṇa,
c. 900 A. D., Agni Purāṇa c. 700 A. D., Matsya
Purāṇa, c. 1500 A. D., Devī Bhāgavata, c. 1300
A. D., Yogavāśiṣṭha Rāmāyaṇa c. 1300 A. D.(From Farquhar's Outline of Religious
Literature).7. *Non-Brahmanical Literature*—c. 400 B. C.—1200 A. D.*Buddhist*—c. 400 B. C.—500 A. D.Dīgha Nikāyā, Mahāvastu, Jātakas—c. 400
B. C (?)Saṃyutta Nikāya, Aṅguttara Nikāya, Chatuḥśa-
tikā c. 400 A. D., Mahāvaiṃśa c. 500 A. D.*Jain*—c. 900-1200 A. D.Nītivākyaṃṛitaṃ—c. 900 A. D., Laghu-Arhan-
nīti—1089-1173 A. D.(From Ghosal's History of Hindu Political
Theories).

8. *Secular Literature*—c. 300 B. C.—1603 A. D.

Artha Śāstra—c. 300 B. C., Nīti Sāra—c. 500 A. D., Bṛihaspati Sutra—C. 1200 A. D. (?) Śukra Nīti c. 1200 A. D. Viramitrodaya c. 1200-1600 A. D., Vivādaratnākara, Rajanītiratnākara.

(From the Introductions to the works).

9. *Commentators*—c. 900-1600 A. D.

Medhātithi—c. 900 A. D., Vijñāneśvara—c. 1100 A. D., Sāyana c. 1300 A. D., Kullnka Bhatta—c. 1400 A. D., Mādhava—c. 1200-1600 A. D., Nandana, Rāghavānanda.

(From McDonnell's History of Sanskrit Literature).

10. *Classical Sanskrit*—

Mahābhāshya—c. 150 B. C., Śiśupālavadhaṃ c. 900 A. D., Raghuvamśa c. 500 A. D., Mudrārākshasa—c. 800 A. D. Hitopadeśa c. 1013 A. D.

(From McDonnell's India's Past).

11. *Philosophy*—

Yoga-Sūtra c. 400 A. D., Śāṅkara's Bhāshya c. 800 A. D., Bhāmati, c. 850 A. D., Nyāyamañjarī c. 1000 A.D.

(From Macdonnell's India's Past).

12. *Lexicons*—

Amarakosha—c. 600 A. D., Vaijayantī—c. 1050 A. D., Śavdakalpadruma, Abhidhāna Rājendra.

(From Macdonnell's India's Past).

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INDEX

- Aiyangar—318
 Ananda—193
 Ananga—6
 Angel N.—208
 Aristotle—78, 118, 253, 279, 290, 314,
 342, 357
 Atibal—6
 Austin—226
 Basu P.—64
 Banerjee P. N.—(i) 2, 10, 82, 133,
 383
 Barth—239
 Barua B. M.—388, 384
 Beni Prasad—80, 222, 230, 317
 Bentham—253, 329, 330
 Bhandarkar D. R.—(i) 2, 10, 82, 133,
 383
 Bloomfield—vi, 32
 Bodin—155
 Bosanquet—244
 Bradley—218
 Bradke P. V.—22
 Burke—194
 Burns—330
 Calvin—132
 Chirol Sir V.—133
 Coke—231
 Cromwell—194
 Caesar—394
 Das Govinda—353
 Das Gupta S. N.—ii, 141,
 Dante—179, 382
 Das, Dr. A. C.—71, 77, 237
 Datta M. N.—151
 Davids Rhys—322
 Deussen—209
 Devapi—373
 Dunning—vi, 17, 21, 38, 395, 396
 Eggeling—44
 Eucken—341
 Figgis—27, 221
 Filmer—179
 France Anotole—85
 Gandhi M. K.—211, 390
 Garner—373
 Geldner—32
 Gettel—83, 216, 228
 Ghosh Arabindo—i, vii, 19, 71, 107,
 129, 132, 316, 385
 Ghosal U. N.—41, 44, 91, 92, 122,
 133, 160, 166, 299, 303,
 340, 383
 Goldsmith—130
 Gooch—136, 140, 144
 Green—74
 Griffith—5, 39, 71, 185
 Grotius—216, 285
 Gupta, A. C.—393, 394
 Haradatta—327
 Haradaya—84
 Harrington—192
 Harshavardhan—373
 Haug—44, 141
 Havell E. B.—18, 189, 384.
 Hegel—154
 Herbert George—111, 140, 166, 190.
 Hobbes—11, 91, 327, 330, 365, 372,
 Hooker—372
 Hopkins—98, 133, 210, 233, 238, 240,
 296, 308, 321, 392, 393, 395
 Heunt Sang—389
 Hume—11, 365
 Huxley A—V
 Jacob Col.—369
 James (King)—144, 146, 147, 148, 382
 Janet—vi
 Jayaswal K. P.—i, 9, 10, 134, 143,
 144, 149, 170, 234, 254, 289,
 290, 294, 295, 297, 300, 308,
 312, 315, 316, 325, 326, 328,
 329, 385, 393, 395
 Jinarajadasa—275
 Jolly—233, 235, 237, 238, 239, 241,
 254, 265, 280, 395

- Jones, Sir W.—238
 Kaegi—232
 Kalidas—247
 Kant—250
 Kapilavastu—390
 Kardam—6
 Keats—357
 Keith A. B.—25, 32, 55, 173, 360
 Khalineta—108, 373
 Kohler—364, 365
 Konow, S.—249, 335
 Kramrisch Dr. S—356
 Kritiman—6
 Lal M—25
 Law N. N.—18, 26, 133, 173, 383
 Leviathan—48
 Locke—11, 91, 92, 265, 268, 327,
 397, 365
 Macdonell—32, 173
 Machiavallian—117
 Maine—38
 Majumdar R. C.—32, 61, 66, bol.
 Max Muller—vi, 318
 Megasthenes—378
 Mill—189, 201, 239, 243, 244, 261,
 372
 Montesquieu—19
 More—273
 Muir—4
 Mukherjee R. K.—195, 198, 200, 277,
 324, 334, 375
 Nalika—132
 Neo-Hegelians—218
 Oceana—192
 Onesicritus—373
 Penty—275
 Peter St.—241
 Plato—78, 218, 229, 253, 273, 340
 Prasad Beni—IX
 Prithu—6, 171, 172, 286
 Pururava—108
 Radhakrishnan, Sir S.—ii, iii, 78, 85,
 209, 344
 Ragozin—71
 Raghavanandan—8
 Rockhill—164
 Rousseau—74, 93, 227
 Row G.—19, 74, 328, 384
 Roy Chowdhury—82
 Salisbury, John of—156, 160, 166,
 167
 Sarkar B. K.—i, vi, 83, 96, 106, 243,
 270, 280, 329, 397
 Saraswati—2, 4, 172, 179, 180, 215
 Schweitzar—361
 Shama Sastri—ii, 296, 384
 Sen—91, 324, 328
 Sen Gupta—141, 324, 334
 Siva—114
 Smith Adam—290, 293, 303
 Socrates—229
 Spencer—140, 166, 156, 169
 Spinoza—11, 365, 372
 Sukhavati—163
 Subadhini—394
 Tachibana—203
 Tagore—341, 364
 Tawney—275
 Thomas—317
 Tiruvalluvar—131
 Toinbee—354
 Utopia—192
 Valkhillas—172
 Vamadeva—114
 Vinogradoff—274
 Viraja—6, 6, 134
 Virudhaka—390
 Wellock W—211
 Willoughby—vi, 148, 375
 Yajna—275
 Yuga—353, 354
 Yunan Chwang—373
 Zimmer—22, 32, 44, 60